Albemarle County Planning Commission
October 15, 2019

The Albemarle County Planning Commission held a public hearing on Tuesday, October 15, 2019, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Julian Bivins, Vice-Chair; Karen Firehock; Jennie More; Bruce Dotson; Pam Riley; and Luis Carrazana, UVA representative.

Members absent: Daphne Spain.

Other officials present were Jodie Filardo, Director of Community Development; Amelia McCulley, Deputy Director of Community Development; Carolyn Shaffer, Clerk to Planning Commission; Megan Nedostup; Andrew Knuppel; Rachel Falkenstein; Michaela Accardi; Lea Brumfield; Stacey Pethia; and Andy Herrick.

Call to Order and Establish Quorum

Mr. Keller called the regular meeting to order at 6:00 p.m. and established a quorum.

From the Public: Matters Not Listed for Public Hearing on the Agenda

Mr. Keller invited comment from the public on other matters not listed on the agenda. Hearing none, he moved on to the consent agenda.

Consent Agenda

Mr. Keller asked if any of the commissioners cared to pull a consent agenda item. Hearing none, he asked if there was a motion for acceptance.

Ms. Firehock moved to approve the consent agenda. Ms. More seconded the motion, which carried by a vote of 6:0. (Ms. Spain was absent.)

Mr. Keller asked if anyone else cared to speak. Hearing none, he moved on to the first public hearing item.

Public Hearing Items

ZMA201800012 Galaxie Farm
Ms. Megan Nedostup, Principal Planner, presented the staff report. She said it was a rezoning request for a property located along Route 20 South (Scottsville Road), approximately one-third of a mile from the intersection of Mill Creek Drive.

Ms. Nedostup presented a map of the parcels, which she highlighted. She explained there were two parcels and indicated to Route 20, Mill Creek Drive, the Monticello Fire Station, Monticello High School, and Cale Elementary School on the map. She said there were adjacent county-owned properties to the north, Avinity subdivision to the south, and Cale Elementary to the west. She said the rural areas are located across Route 20.

Ms. Nedostup said the applicant is proposing to rezone 13.36 acres from R1 Residential (which is 1 unit per acre) to Planned Residential Development PRD (which allows 3-34 units per acre) to allow for 72 units. She said the development is proposed to have a variety of housing types, including single-family detached, single-family attached, townhomes, or a mixture.

Ms. Nedostup said that a buffer and open space is proposed along Route 20, indicating to a green area on the map and explaining that includes the existing stream buffer and some steep slopes. She said there is also a green space located within Block 8, and there are proposed primitive trails within the open space area.

Ms. Nedostup said the Comprehensive Plan designates these properties as Neighborhood Density Residential, which recommends a density of 3-6 units per acre. She presented two maps – the Comprehensive Plan Land Use Map and the Parks and Green Systems Map. She said the adjacent county-owned properties on the map, shown in blue, are designated as Institutional. She said that Avinity (to the south) and the Kappa Sigma properties are designated as Urban Density Residential.

Ms. Nedostup said that there is a shown road connection in the Master Plan from Route 20 to Mill Creek Drive, and that a multi-use trail is located along Route 20 within the Comprehensive Plan. She said the application plan shows a portion of the connector road within the properties that includes bike lanes. She said the primitive trails were determined to be sufficient by the Transportation Planner, in this case, for the multi-use path to serve as that connection.

Ms. Nedostup added that there is discussion around the center, indicating to this designation on the county properties on the map. She said it states that a collaborative community process is needed prior to a decision on the use of county properties resulting in the Small Area Plan for the center, but that this has not been planned yet by the board.

Ms. Nedostup said the applicant was proposing to go above the recommended density stated in the Comprehensive Plan. She said that if it is development to the proposed maximum number of 72 units of density, the project would be 7 units per acre, which is above the recommended range of 3-6 units per acre. She said the applicant is proposing 9 units above the recommendation, stating that these units will be provided to address the affordable housing of 15%. She said staff has recommended that the density within the report be reduced to the recommendations within the Master Plan and that the proposal meet the housing policy for affordable housing. She noted that Stacey Pethia was present to answer any questions about affordable housing.

Ms. Nedostup said that in addition to the rezoning request, the applicant is requesting a number of modifications and exceptions including private street authorization; modifications to street standards for sidewalks, planting strips, curb and gutter; and modification of the setbacks. She said the staff analysis was provided in Attachment 9 and that she was happy to answer any questions about the findings and recommendations, noting that she wasn't planning to go into detail on those.

Ms. Nedostup noted that the private street modifications of street standard requests are Planning Commission approvals, and so the Commission would be making a motion that evening to either approve or deny those requests. She said the setback modification requires Board of Supervisors approval, and this would require the Commission to make a motion of recommended approval or denial of that request.

Ms. Nedostup said the favorable factors for the rezoning is that the request is consistent with the majority of the recommendations within the Southern and Western Neighborhoods Master Plan and Comprehensive Plan; the rezoning is consistent with the majority of the applicable Neighborhood Model principles; it provides affordable housing that meets the housing policy within the Comprehensive Plan; and provides a portion of the connector road that is recommended in the Southern and Western Neighborhoods Master Plan.

Ms. Nedostup said that unfavorable factors include adding additional students to Cale Elementary, which is over capacity with no current plans for expansion for future capacity; and the density proposed is above the recommendations within the Southern and Western Neighborhoods Master Plan.

Ms. Nedostup offered to answer questions, noting that Frank Pohl (County Engineer) was also present to answer questions about the private street request.

Ms. Firehock asked which road is the one that is supposed to connect all the way through.

Ms. Nedostup replied that it was Road A.

Ms. Firehock asked if Galaxie Farm Lane would continue, and if the county decided it wanted to build the connector, how this would go.

Ms. Nedostup replied that the road was a dashed line on the map and that this was yet to be determined.

Ms. Firehock said she was confused because it looked as though it went along Galaxie Farm Lane but that this seemed odd. She asked if Road A was public and would be built to public standards.

Ms. Nedostup replied yes.

Ms. Firehock asked if it was proposed currently to be built to public standards.

Ms. Nedostup replied yes.

Ms. Firehock asked if the roads in question, then, were Roads D and E.

Ms. Nedostup confirmed this.

Ms. Firehock said that perhaps the applicant could explain that there were two options provided for Road D as public versus private, and the private one connects but the public one does not connect and ends in two cul-de-sacs. She said she couldn't determine why this was. She asked if it was because there was not enough width at the top of Road D as a private street or can only

be connected if it is a private street.

Ms. Nedostup replied yes, mentioning the VDOT standard for the radius.

Ms. Firehock said that this was what the turn radius was referring to, and it must be private because they could not get the curbs right.

Ms. Riley said that in a prior version of the application, the county requested there be connectivity to Avinity. She said she was curious as to why this was not part of the application and if Ms. Nedostup could explain how it would be feasible, if not.

Ms. Nedostup presented a map and indicated to the Cale property as well as to where the connection to Avinity had been proposed. She said staff was not certain of the feasibility of this. She said there is also stormwater management in the back of Cale at that location, and because the property is offsite, staff cannot require it, but they are requiring that a 50-foot right-of-way be extended to the property line if, in the future, they wish to make the connection.

Ms. Riley asked if it would be the county wanting to make this connection and if it would run through the county land to Avon.

Ms. Nedostup replied that it would run to Avinity.

Mr. Keller opened the public hearing.

Ms. Nicole Scro, representative of the applicant, introduced herself, noting that she used to be a land use and zoning attorney in Charlottesville and started Gallifrey (a real estate development company) in September 2018. She said her family develops elsewhere – her grandfather started the company through which her family has built several thousand houses – and that she is marrying her family's real estate experience with her knowledge of Charlottesville. She said she was accompanied by Justin Shimp (Shimp Engineering).

Ms. Scro said that the property is about 13 acres off of Route 20 and is designated as Neighborhood Density Residential (3-6 dwelling units per acre). She said she had come before the Commission in December 2018 to talk about density, during which she had proposed some small cottage units. She said the consensus seemed to be a Comprehensive Plan amendment and rather than taking that route (since they are no longer able to initiate that CPA themselves), the applicant is now adjusting the plan to make it fairly consistent with the Comprehensive Plan.

Ms. Scro presented the project timeline to explain why it has taken some time to arrive in front of the Commission. She said some other project changes were that the applicant was no longer involving the county property and that the density has lowered.

Ms. Scro explained that the applicant has engaged extensively with the community, meeting with the 5th and Avon CAC twice and the residents of Avinity twice. She said there are two families who live off of Galaxie Farm Lane and will be impacted by any change to Galaxie Farm, and so the applicant has met with them several times, as well as others such as the owners of Somerset Farm (across the street), the Kappa Sigma headquarters, the nursing home, and Tandem Friends School.

Ms. Scro presented the illustrative plan, explaining that it shows more detail than the block plan in the application. She said that upon entering the site, there is focus an entrance off of Route 20, and what the plan shows is preserving a rural landscape while still having a development in the area. She said that when entering off of Route 20, there will be mostly green space because of the 3 acres of stream buffer.

Ms. Nedostup said upon entering, there are private streets along each side due to the shape of the property. She noted that Mr. Shimp would be later discussing why the street is private, as he was more knowledgeable about the intricacies of the regulations. She indicated to another private street, noting that Ms. Nedostup recommended approval of it, and that it was simply serving as an alleyway so that the adjacent homes can face the green space and so the vehicles can enter in the back. She explained that rather than having a larger street and having the homes face the street, they can orient towards the green space by having the private street in the back.

Ms. Scro indicated to where she said there was a good mixture of houses, even with the Neighborhood Density Residential. She said that even with the 3-6 acres, there is a mixture of townhouses and single-family detached units as well as affordable townhomes in one of the blocks. She said the applicant has been in preliminary discussions with Habitat for Humanity to partner with them, adding that this was not finalized. She indicated to about 0.3 acres of green space, explaining it was marked as a dog park and playground on the map but that it could change.

Ms. Scro said that what the applicant has heard from Avinity is that much of the area consists of townhouses and attached units (and that Avinity entirely consists of this), and that people were excited to be able to transition (after living in Avinity for 5-6 years) to a single-family detached house. She said this was why the county often encourages a mixture of housing types in one location so that people do not have to move to a very different location in the county, but can move into a single-family detached house nearby. She said there are already people looking at reserving certain lots, which was exciting and positive.

Ms. Scro said that affordable housing has been a major issue under discussion and that the applicant is proposing units above the recommended density in the Comprehensive Plan, with those units that are above the recommendation being designated as affordable. She said the numbers in her presentation were slightly off and that she would adjust them to what Ms. Nedostup had put in the staff report. She said it would be 72 proposed units, with 7 units above the Comprehensive Plan and 11 units being designated as affordable.

Ms. Scro said the main concept was that by allowing the applicant a density above the Comprehensive Plan, they are mirroring what was previously approved at Riverside. She said that there, 59 units were recommended, 69 were proposed, and 10 were above the recommended density and were required to be affordable. She said she did not see where there would be a compelling reason to treat the Galaxie Farm application differently because they have a very similar location via center, and that the county wants to fulfill the center's designation by having residents nearby it. She added that the traffic there was not necessarily an issue.

Ms. Scro said that she was at a pre-op with Ms. Pethia the day before, where a similar application in a different location was looking to do the same thing. She said she thinks this will have an impact in the ability of smaller projects to include more affordability, especially in places where there is a Neighborhood Density Residential designation. She said it is difficult to build affordably in those designations because the density allowed is so low. She said there is the desire to build

smaller units that are affordable, but that more of those are needed to make it financially feasible due to high land costs. She said the ability to provide a bonus above the Comprehensive Plan is important.

Ms. Scro noted there were intricacies with the proffer law changing. She said if the applicant had proposed R6, the county would not be able to require a proffer statement of 15% affordable housing in that designation. She said that here, they were conditioning it as part of the application plan to still require affordable housing and that rather than treating it too differently from a R6 application, they are allowing for affordable housing but asking for a bonus for it.

Ms. Scro presented a map showing the center designation nearby. She said a center is defined as a place to which people want to walk to within one-quarter to one-half mile. She said there were not many centers currently.

Mr. Shimp, engineer for the project, said that as alluded to earlier, there were some small differences between the private and public street standards that were bringing the applicant to asking for some private streets. He said that generally, he finds it easier to get more Neighborhood Model oriented development if he does not have to deal with VDOT streets. He said this was nothing against VDOT, but that VDOT has certain things they are looking for across the whole state, with one of the main things being the turning radius. He provided the example of another project off Sunset that was by-right and R1. He said that going this by-right VDOT route, they were compelled towards that design due to the ordinance.

Mr. Shimp presented the public option for the street, noting that it could be done and that though it would not adversely affect the people living there, if they could get by with a private street, there could be flexibility for a smaller radius. He said it was a site plan issue but that the flexibility would allow them to go down the road with some other considerations. He said the applicant would like to have it as a narrow loop street rather than two streets with a cul-de-sac as it was a better design and is generally found in mini-neighborhood developments.

Mr. Shimp presented the table from VDOT that the applicant has to go by. He said there was a 200-foot radius and if they go down to the low speed, they can go to lower 70s or 125 feet and more compact curves with a lower speed with that standard. He said to the extent the applicant could have this flexibility, they would like to have it, but if public streets are required, they could work with that.

Mr. Keller invited the public to comment. Hearing no comments from the public, he invited the applicant to come forward again for questions.

Ms. Firehock asked for the width of the private street.

Mr. Shimp replied that the applicant would like to have it 24 feet wide with parking on one side.

Ms. Firehock asked if it was the typical width of a City of Charlottesville street.

Mr. Shimp replied that it would be typical of the streets one drives on where sometimes; the driver has to wait for someone to pass by. He said there would be about 12-13 houses on that street and therefore, low traffic.

Ms. Firehock asked for the width of a VDOT standard street.

Mr. Shimp replied that if parking is desired, it has to be 29 feet.

Ms. Firehock asked if the applicant was asking to only reduce the width by 6 feet.

Mr. Shimp replied that it was more about the radius – that the curvature was more important than the width in many ways. He said the public street would have two cul-de-sacs and with private (with the County Engineer's approval), they would have an option.

Ms. Firehock said that in looking at the two options, it struck her that being able to drive around the road doesn't really get one that much as they are not really getting anywhere. She said it was a question of whether someone can drive around or if they have to come back out in their car to go back. She said if someone wanted to visit their neighbor, where were they actually driving to.

Mr. Shimp said that in a way, it was more about walkability (for instance, if someone was walking the loop with their dog).

Ms. Firehock said that to this end, it struck her that perhaps the applicant could connect the two cul-de-sacs with a walking path because neighborhood connectivity is important, but she doesn't see the need for a vehicle to necessarily drive around the edge of that.

Mr. Shimp agreed that it was not necessary, but it was a preference of the cul-de-sacs versus the connection around. He said as it is laid out, having a trail in someone's back yard was awkward.

Ms. Firehock countered that this might be preferable to having a road behind the house.

Mr. Shimp explained that it would be beside the house. He said in the private street layout, there is a corner lot. He said it is a design preference and that the applicant didn't feel very strongly about it other than to say that they prefer the private street option, as it is a better layout for the street. He said that if they need to do cul-de-sacs, it can be done.

Ms. Firehock said she was trying to figure out a compelling reason for why it is needed because it doesn't really go anywhere.

Mr. Shimp said that if attached dwelling units are there, it is an agent approval anyway.

Ms. Firehock asked Mr. Shimp what he meant.

Mr. Shimp explained that essentially, staff would approve it. He said the Planning Commission would approve it if it is single-family houses. He said if they put all the housing side by side, he would ask staff for an agent approval rather than Commission. He said they need it purely to have single-family for the roads to be private.

Ms. Firehock asked if there were four additional single-family, referring to the plan and noting that the ones on the bottom were attached and the ones in pink were all single-family detached. She said in the other option, they were getting three unattached.

Mr. Shimp said it was similar in the way of the unit count. He said if all the units were attached, they could do the private street by-right and that this was standard for townhomes. He said that 4-5 single family houses warrant this discussion, even though they may not be that much different than the attached housing that would replace it.

Ms. Firehock said she didn't see a compelling reason either way.

Ms. Riley said that at some point, Mr. Pohl would likely weigh in on the radius turning issue. She asked if it was a private road, it would become an additional maintenance area for the HOA and factor into costs for HOA fees.

Mr. Shimp replied that it would, noting that it would be weighed out over all the units.

Ms. Riley asked if this would include the affordable units.

Mr. Shimp said it would include everything.

Ms. Riley asked if the entire community would have one HOA.

Mr. Shimp replied yes.

Ms. More said she had a question about the reference that was made to Riverside Village, with regards to density and affordable housing. She said what she was hearing the applicant say was that in comparing the approval to Riverside Village over which what was recommended in the Comprehensive Plan in regard to the number units, the applicant was expressing that in order to achieve those units, they would like to go over what staff was recommending.

Mr. Shimp said it was the same consideration. He said that Riverside Village's proposal was over the recommended units, but it was said that the 10 additional units were affordable and that this was voted through as acceptable by the Board of Supervisors.

Ms. More said that her concern in following this logic was that the request becomes the norm – that in order to achieve affordable units, the Commission should always be asked to allow for people to go over what is recommended to accommodate for the affordability component.

Ms. Scro said that it would still be on a case-by-case basis, and if there is a compelling reason why the density should be the recommended density in the Comprehensive Plan, that can be a decision and consideration of the Planning Commission. She said it should be allowed on a case-by-case basis because it does impact to be able to build affordable units in Neighborhood Density Residential and that by "affordable," she means that a for-profit developer can build something that is smaller and therefore more affordable if more of them can be built. She said this was very difficult to do in Neighborhood Density Residential.

Ms. Scro continued that she knew the decision that evening would impact how other applications will consider how they will design their developments. She said that with this being said, it still would be a case-by-case basis and should be handled carefully because there are instances were density is very sensitive when building in a certain area. She said she didn't think this was the case in her application or in some other instances, but that the door should at least be open to a case-by-case analysis to allow for this ability, especially in light of the affordable housing crisis and that in those areas where affordable units can be built, there should be as much as can be

done in order to encourage that.

Ms. More said that to this point, the applicant's language is "more, smaller." She said she understood that the applicant has a bottom line, but that it concerns her as to if they are building truly affordable units and that the unit types being produced don't always meet the needs of those in the community if all that is put out within a development are the tiniest units. She said, for example, that in an apartment complex, it is the smallest apartment in the most undesirable location that is unfortunate to see, with some boxes checked to say that the applicant has accomplished the affordable housing when she is not sure that they actually did.

Ms. Scro said that the way the decision will impact the affordability of this project is that if the applicant were to only provide what is recommended in the Comprehensive Plan, they would take away some units and therefore, other lots would increase in size. She said this is how those units would become even more costly. She said the units there might be around $400,000-500,000, noting that those are very expensive homes, but that they would increase even higher to $500,000-700,000. She said that while they are still not necessarily achieving affordability in the sense that is desired, they are able to do it marginally in decisions such as this one.

Ms. Scro said that in other cases, such as the pre-op that was done recently, they would be able to build at $250,000 in that instance. She said this would be changing the way that developers are able to distribute the costs of land by allowing for this.

Mr. Shimp clarified that when the lot total goes down, the lots become bigger and the houses become more expensive. He said it was really an issue of 3-6 units in those zones, and the question was to if they go over this number by 6 or 7 units and there are no traffic issues, if this was really a problem because it creates more affordable units. He said every additional unit applies the math of 15%, and every house that is built becomes slightly more affordable. He said if there was no compelling reason against this, it should certainly be considered.

Ms. More asked if Roads D and E were to be private, who would maintain them. She said she was specifically thinking of plowing the alleyway, especially for Road E. She asked if the community would pay to have those roads plowed when it snows, and if VDOT would stop at the main road and would not plow the private streets or alleyway.

Mr. Shimp replied yes. He said that the parking lot and back alley for the townhomes has to also be maintained. He said that in those neighborhoods, residents do not mow their own grass because they have lawn maintenance all year round. He said that all sorts of maintenance occur in the HOA. He acknowledged that this all does add up.

Mr. Shimp said that in a townhome development, all the streets are generally private, and all the people who own those homes pay to maintain the streets. He said the people who are buying less expensive houses pay to maintain their own streets. He said on the other hand, if there are single-family houses and public streets are built, the state pays to maintain those, so that people who have more expensive houses have maintenance done for them, and people who have less expensive houses pay. He said he personally finds this troubling. He said in apartment complexes, everyone drives a car and pays a gas tax. He said that people who live in single-family neighborhoods with public roads get them plowed and people in apartment complexes pay to do it. He said this should be considered.

Ms. More said that the applicant was back before the CAC in August with the proposed changes, and then the concerns that were raised were capacity at Cale and that the density is above the Comprehensive Plan recommendations, as well as affordable housing. She asked what the applicant's responses were to the CAC's concerns, with the understanding that they may have explained to the CAC what they were explaining to the Commission in terms of density and affordability, but perhaps speaking more directly to the capacity issue at the school.

Ms. Scro replied that the CAC didn't necessarily expressing concerns, but that there were questions in regard to density. She said this CAC is particularly well-versed in policy and zoning, and so they were curious about how those things interact and change.

Ms. Scro said in terms of Cale, this is an issue in the area. She said she was at a capital improvement meeting earlier and that this was discussed. She said there seems to be money that is being prioritized to address the current capacity issues, but not necessarily future capacity issues. She said she had discussed this issue with Rosalyn Schmitt and others at the School Board to come up with something that the applicant can do. She said what Ms. Schmitt said was that Walton Middle School and Monticello High School are under capacity, and so they do not necessarily want to discourage people from moving into the area because they want to utilize the under-capacity facilities. She said Ms. Schmitt had said that Cale is an issue, but that the project would not really change the game for how Cale needs to be addressed, no matter what.

Ms. More said that she did read this in the applicant's narrative.

Mr. Dotson asked when the applicant would expect to start building, and how long the project would take to build out. He said that what lies behind his question was to when the students would need to be serviced by Cale.

Ms. Scro replied that it would likely be a year before any dirt moves. She said the full buildout would take 5-6 years, depending on what builder is building. She said if it is Stanley Martin, it might be faster.

Mr. Shimp said the first students would arrive in 2.5 to 3 years.

Ms. Scro said the estimates in the staff report were 10-11 elementary students, expressing that the benefits of the project outweigh the negatives and acknowledging that Cale needs to be addressed no matter what.

Mr. Dotson asked about the affordable units and the discussions with Habitat. He said one of the very positive features of Habitat is long-term affordability. He asked that in the case that the partnership with Habitat doesn't work out, if the applicant had thoughts on long-term affordability.

Ms. Scro asked if Mr. Dotson was referencing how Habitat has a right of first refusal.

Mr. Dotson replied yes.

Ms. Scro said the land trust is another entity that the applicant has spoken to, noting that they are trying to expand but that it is difficult to ramp this up quickly. She said she also spoke to New Hill, who is also trying to enter the non-profit affordability field. She said she was hopeful that there would be a non-profit in the area to provide the affordable units. She said the applicant was not looking to provide a cash-in-lieu, but to build on site and have the units come to fruition. She said

this would hopefully be a positive.

Mr. Bivins said he was trying to figure out why 7 units equals 1. He explained that the applicant gets 7 houses, at $400,000 or so, and the county gets one affordable property, where if they stay at 65, the county gets 10 affordable units and the applicant gets 55. He said he has been struggling with why he should agree to one affordable unit when the applicant gets 10.

Ms. Scro replied that it is based on 15% of the total units that will be built. She asked Mr. Bivins if he was saying it should be higher than 15%.

Mr. Bivins said he was saying that if the applicant builds to the Comprehensive Plan level (which is 65 units), then 10% of this would push 10 units would push them into a smaller half-unit, which is something one might do with a historic property instead of taking this down. He said the applicant provided pictures of the historic property but that there was no narrative included about it. He said if he assumed, he was going with staff's recommendation, it was coming down, and that it makes him uncomfortable.

Mr. Bivins said that when he sees that under the Comprehensive Plan, it would be 55 homes at market rate, with 10 homes at an affordable rate. He said if the Commission approves what the applicant is asking for, the total number would then go to 72, with 11 affordable units. He said he was trying to figure out why he would be willing to take that deal.

Ms. Scro began to state that if it were an R6 rezoning.

Mr. Bivins interjected that he was not talking about what it could be. He said that what the applicant was proposing was not R6.

Ms. Scro said the applicant had originally applied for a PRD to try to do cottages and smaller houses. She said this was basically an R6 application but that they did not formally make that change. She said the applicant was asking not to be treated differently from an R6, where there would be no required affordable housing. She stressed that by allowing 15% over the Comprehensive Plan for Neighborhood Density Residential districts, it will have an impact on other applications.

Mr. Bivins asked if he was correct in saying that if they hold to the Comprehensive Plan, there still should be 10 affordable units that come on the property.

Ms. Scro replied yes – that they could take that path, looking at the Comprehensive Plan language.

Mr. Bivins said this was all he was trying to get to – that there will be 10 units that will be under some affordable index if they go with the 65-unit density. He said the argument was as to why he should take the deal for only one additional affordable unit.

Ms. Firehock said that they were assuming that someone else would come in and ask for exactly 6. She said they could come in and develop it by-right at far less, which is what is frequently happening in Crozet.

Mr. Bivins said that this was not this project.

Ms. Firehock said she understood this, but that he cannot assume that another developer will want to do 6.

Mr. Bivins agreed, but that he was dealing with what was before the Commission.

Ms. Firehock said he was making it sound as if there were choices to make between one and another. She said this was not necessarily a choice that the Commission had.

Mr. Bivins said that this is what the applicant was asking them to do.

Ms. Scro stressed the impact that the decision, from a policy perspective, will have on others.

Mr. Bivins expressed that he understood.

Ms. Riley expressed her appreciation for the applicant's effort to provide affordable housing and that they have consistently emphasized this. She said she wanted to drill down on the numbers because in principle, she believed that they should provide an opportunity for increased density in exchange for affordable housing, and therefore it was important to understand what the applicant was offering in terms of how much more density they get versus how many units are provided. She said this would not necessarily be the precedent for every single applicant going forward, but that the county was in the midst of developing a new affordable housing policy and every case informs what new policy gets developed. She said the Commission should be talking about this in terms of policy.

Ms. Riley said that if the applicant came in at the land use recommendations for the area of 65 homes, and the applicant was to do 15% affordable housing (which is what the Comprehensive Plan and current housing policy ask for), the applicant would be offering 10 affordable units, and that the applicant was offering 9. She said the applicant was, in fact, asking for an 11% increase in density and when adding up the units being offered under that increased density, the applicant's affordable housing units fall below 15%. She said whether the applicant is coming in under the Comprehensive Plan or under the current density bonus, neither one meets the county's current policy of 15%. She asked for comment on this.

Ms. Scro said that the numbers were confusing because the applicant had calculated the area differently. She said the applicant was providing 15%, whether it is at the 65-unit total or the 72-unit total. She said it is 15% no matter what.

Ms. Riley asked for explanation as to how many affordable units it would be under 65 units and how many would be under 72.

Ms. Scro replied that under 65 units, it would be 10 affordable units. She said that under 72 units, it would be 11 units. She said that as they discussed before, the other units in the development also become increased in size and also become more expensive, and thus this has a trickling effect. She said she hoped the Planning Commission would look beyond simply the 10 versus 11 number and looks at how marginally the price of the units can be changed.

Ms. Riley said she completely agreed that 10 units of 65 is 15%, but that she did not understand the math that says that 11 units out of 72 is 15%.

Ms. Scro said that 15% of 72 was 10.8 and then it is rounded up to 11. She said 15% of 65 is 9.75 and is rounded up to 10.

Ms. Riley said that staff ran projections on the impacts to the local schools. She said when running the numbers on yield rates for proposed 72 units, there are 31 elementary students, and the yield rates for 65 units is 28.1 elementary students.

Mr. Dotson said this struck him as high.

Ms. Scro said she was confused about this as well. She said the projections looked at if all 72 units were single-family detached, if all of them were single-family attached, and if all of them were townhouses to see the extreme variations.

Ms. Nedostup replied that this was correct. She said Ms. Schmitt provided the numbers in Excel sheets that included multiplication factors. She said it was correct that if all of the 72 units were detached, it would be 25 elementary students.

Ms. Scro said it was about 10-11 new students.

Ms. Firehock said this is what she wrote down.

Mr. Dotson said that in other words, the column doesn't add up.

Ms. Riley asked if each one of the rows on the sheet were a different assumption, and so if they were all single-family detached, it would be 10.8; if it was all single-family attached, it would be 9.4. She said she was curious about running a scenario like this versus what the application does, which is proposing a variety of types of houses. She said that when the Commission looks at the numbers, some explanation would be helpful, and that the numbers should reflect the applicant's proposal.

Ms. Nedostup explained that often times, staff does not know what the ultimate mixture built on the ground will be and that these numbers were the best tool they have to anticipate what the impact will be to schools.

Ms. Firehock said she looked at it compared to what could be done by right, by the Comprehensive Plan, or by this proposal. She said that by the Comprehensive Plan versus the proposal, it is only a handful of students and not a big difference.

Mr. Keller said he wanted to discuss propinquity (closeness or nearness). He said it seemed to him that the strongest argument, from a land use standpoint, for the project is that the applicant is building a number of residential units, with some of them being affordable (noting that he did not like the term "affordable" in this case and that he thought it was actually "workforce"), with the potential for workforce housing (assuming they didn't have an over-capacity in the school) where students and their teachers could live near and walk to a school. He said this seemed to be in keeping with the Neighborhood Model, which was frequently being discussed, if there is an ability for connection. He asked if the applicant has spoken to the schools about how they could at least connect by bike and pathway.

Ms. Scro replied that she did, and interestingly, the discussion was about security. She said she had proposed a path from Road C up to Cale, and Ms. Schmitt was concerned about security but acknowledged that this would help as there is congestion in the area with so many school vehicles and buses coming and going. She said the connection would be a potentially helpful thing, but that a chaperone would have to walk with the kids for security reasons.

Mr. Keller said he understood what the policy and process has forced the applicant into, and that depending on how the Commission decides, if they pull back and look at the big picture, it seemed to be a factor of propinquity, which was important to the project. He encouraged the applicant to think it through and make the arguments in this way, because this has been an issue in other recent projects because of residential "islands" that are isolated due to transportation. He said this project has the potential for propinquity beyond many projects that he had seen, which he saw as a positive.

Mr. Shimp said that when the applicant first started the project, one of the things they had talked about with the county was having a path in the original plan coming from the county property and running to Monticello High School. He said this was the first proposal but that there was a lot of complexity associated with this, with the county needing to go through their process, so the applicant backed off of this plan. He said the connection did cross the applicant's mind from the start because it was a great opportunity to build a road where people can walk places. He said that with the way the county operates, this will happen, and connections will be made.

Mr. Keller said his final question comes in under the umbrella of affordability and workforce. He noted that the county would soon have an affordable housing policy. He said that because of the location being close to an elementary school, and with what they are not sure what is going to be developed on the county-owned land, there needs to be some mechanism of ensuring that the workforce housing doesn't go up to market after the first sale. He said the county was grappling with this, but that if the applicant could think about this and offer it, it would be interesting in the future. He said he did not necessarily mean for it to happen with this project.

Ms. Firehock asked for more explanation about the curb and gutter variance request and the reason for this.

Mr. Shimp replied that this was for Road E, which they are trying to make into an alley. He said staff supports the private road and suggested for the applicant to do the curb. He said there are curb options they can do there.

Ms. Firehock said this made sense.

Ms. More said the applicant had enclosed pictures of the historic home and garage or barn. She said she did not see it in the narrative, but that she knew they had no way to protect those historic structures. She said it seemed as if the applicant had asserted that these were beyond repair. She said she did not know if it was occupied or not and did not mean any insult to anyone who has occupied or have owned or tried to repair the property, as she has also owned a historic home and knows it is costly with constant maintenance involved. She said it was not staff's determination that it was condemnation by neglect – that there was something there that could be saved. She said she understood this was costly and asked if it was ever considered to try to work it into a plan.

Ms. Scro replied that it was very difficult to include the historic property as part of the development. She said the applicant had thought about doing it for the other house, which is not designated as historic but has more of a home site. She said the location of the property (the house on the longer, narrow property) is right where the development's roads would intersect, therefore making it difficult to include.

Ms. Scro said the applicant had also worked with the Hanes, who lived there, and that they would actually have the higher evaluation of more density than keeping it. She said they now live in North Carolina and return to the property for their cow that is there and that they do not live there anymore. She said this is their retirement, and that this was their preference, as the applicant needed the Hanes' permission to ask for the demolition permit.

Ms. More said she could see that the permit had already been pulled.

Mr. Shimp noted that there was a tornado that swept through the houses a year before and that had destroyed the trees, home sites, and things that would have made it valuable to save.

Mr. Keller closed the public hearing and brought the item back for discussion and action.

Ms. Firehock said that regarding Modification Requests in the staff report, page 10 listed Modification Request #3 as, "Modification of PRD setbacks: for front and rear setbacks, staff recommends partial approval." She asked what the "partial" part of the approval was.

Ms. Nedostup replied that in Attachment 9 (her full analysis) on pages 6 and 7, there is more detail on this. She said the exhibit that was provided by the applicant, along with the narrative, indicate that there were some lots that did not seem to meet the front setback that were accessed by Road E. She said that the way it is written in the summary is that she was recommending approval of the front setbacks only for the amenity-oriented lots that face the open space area towards Route 20.

Ms. Firehock asked if Ms. Nedostup was recommending the setbacks could be waived for those that face the open space.

Ms. Nedostup replied yes, adding that the rear setbacks for all of them would be 20 feet. She said there were lots that faced Road A and Road B that didn't necessarily need the front setback waived.

Mr. Dotson commented that something the applicant mentioned several times as a positive factor was that the Commission's decision that evening will have an impact on other applicants. He said that to him, this was a reason not to use a specific project to set a precedent. He said there is an ongoing study about housing policy and that this was the place where the question should be addressed – not on a project level.

Mr. Keller added that the Commission would be, in fact, discussing this as a component of form-based code in their third item that evening.

Ms. Firehock said that she believed their attorney would tell them that each application is unique, because every time the Commission has a conversation about a project becoming a precedent and making a new rule about affordable units, there is concern.

Mr. Andy Herrick (County Attorney) said that Ms. Firehock made the statement for him. He said that each project is context-specific and is judged on its own merits.

Ms. Firehock said she did not think that this was not actually a concern. She said it is always challenging when someone is proposing a project and that they are the ones who have to pay for it. She said the county does not have their pro forma and has no idea what is necessary to make their project a financial success, and that it has to be a financial success, or no one will do it. She said that on a certain level, the Commission is always being asked to move forward on faith that someone will need to go above the density required to be able to include affordable housing.

Ms. Firehock said she didn't have a negative concern about the site. She said her interest in it is that it is located close in and has walkability components. She said she was not concerned about the request to go above the recommendation – that it was 3-6 units in the Comprehensive Plan and that the applicant is asking for 7. She said with it being a relatively small development, the profits margins will thus be smaller as well and that there is more risk in a development like this. She said she found the arguments to be compelling.

Ms. More said that even with the explanation of not setting a precedent and having each application reviewed on its own merits, she was concerned about going over the recommended units. She acknowledged that it is a small amount and said she was familiar with other projects (even some by-right projects) who would like to go over the recommendations with the promise of offering affordability, but the pathway for them to do this is a Comprehensive Plan Amendment. She said these were all separate projects that would be looked at differently and have a different process.

Ms. More said she didn't like the idea that just because it is a small difference, it is okay. She said she understood and appreciated the argument and knows that the Master Plans are a guideline, but that they offer neighbors who choose to understand the plans a degree of information and certainty about the possibilities about the way that properties might develop around them. She said if the Commission allows totals to go over the recommendations, it undermines the Master Planning process, to an extent and doesn't send the message that she personally would like to send. She said if they continue to go down this path, the numbers could be greater that they are asked to give in the name of affordability or whatever else is the "dangling carrot."

Mr. Keller said they had not discussed transportation and the additional flow of traffic on Route 20 near a number of intersections and interchanges.

Ms. Riley said the staff report noted that they did not think it would be difficult for people to turn left out of the subdivision onto Route 20, which would likely be the biggest issue in the area. She said she has gone on record saying that while there is a connector road from Route 20 to Mill Creek in the Master Plan, it really hasn't been studied for either justifying its need or its alignment. She said allowing for the connection (while not forcing it) in her opinion was perfectly acceptable. She said that while there were some traffic impacts, she personally did not see any significant ones and that they were not a reason to not recommend approval.

Ms. Riley said that in regard to affordable housing and increased density for some additional housing units, she didn't think that the Commission was establishing a precedent. She said there is an argument for not just a general affordable housing need, but for affordable housing specifically in this area as it has already been allowed for affordable housing and could use some more.

Ms. Riley said she does continue to have concerns about the Commission receiving staff reports that say that because there is no elementary school project in the CIP to address expansion beyond the current students, there is no impact, or they cannot expect any impact mitigation from applicants. She recognized that they cannot but expressed that it was still a concern for her. She said it comes down to increased density providing some more affordable units and will likely result in additional elementary students, but that this was likely a marginally small number in the difference.

Ms. Riley said she was inclined to say that this was a reasonable infill development project. She said she would have to have faith that the infrastructure issues will get worked out.

Ms. Firehock said that to Ms. Riley's point, they were only talking about 7 additional units. She said if they had a housing development of 200 units allowed, and the additional was 60, this was a much different consideration than 7. She said she was leaning towards supporting the project, except for the fact that she agrees with staff that the modifications for the private road for Road E makes sense, but not necessarily for Road D. She said she agreed with the rest of the staff recommendations.

Mr. Bivins said that he was with the Comprehensive Plan on this proposal. He said that it was important that when someone looks at the county regulations, they understand what the regulations are asking them to do. He said that from a developer's standpoint, if a developer is looking at moving to the area, they will look at what the regulations say that for this particular area.

As an aside, Mr. Bivins commented that he did not deem the property as infill, but the development of an old farm. He said it was not as if they are putting something down on Albemarle Square.

Away from the microphone, Ms. Firehock mentioned "infill" being defined.

Mr. Bivins said he understood this and was going to look for this because he noticed that in their definitions, it didn't say anything about redevelopment there. He said he was going to ask staff, at some point, to consider putting in a term for redevelopment because there is no terminology in their definitions about this and would be helpful.

Mr. Bivins said that if he was a developer, he would be looking at the regulations and wonder if he was supposed to come before a body (whether the Commission, or someone else) and "roll the dice" on a new idea, or if he was supposed to go through the plan and determine that in the particular area, there would be 10 affordable units. He said that if someone wants to make the argument that they could go higher, it would mean he would be giving 15 affordable units to include the extra density, and if he wants to go the business model of making it all affordable that's possible. He expressed that to include the affordability piece and to net one additional affordable unit for stepping away from the Comprehensive Plan was not something that he could agree to.

Ms. Firehock said the purpose of the Comprehensive Plan was to serve as an advisory document and not a regulation. She said the Commission doesn't want to get carried away with themselves because in looking at the Comprehensive Plan and the size of the county, and all the recommended ranges, none of them were sat down with a very careful, site-specific analysis for every single parcel. She said at the scale to which the county's Comprehensive Plan rests, they do not have this, and this is why these projects come before the Commission – so the Commission

can perform a detailed analysis on the parcel and determine what makes sense for it.

Ms. Firehock said the Comprehensive Plan is a guide and this is how it is set out in the state code. She said therefore, it is not something that should be taken as an exact, precise number. She said one could look at the Comprehensive Plan and decide that it was wildly wrong, disagree with it and do something else, which was perfectly legal. She said she didn't want to get hung up on what the Comprehensive Plan says, and that this got back to the point about not setting a precedent because each site is unique. She suggested that Mr. Bivins should not get hung up on the number 6 because it was not a very detailed analysis that went into making that number for this particular site in the Comprehensive Plan.

Mr. Bivins said he appreciated Ms. Firehock's statements. He said he was not hung up on the number 6 total, but rather what the Commission is signaling to people. He said in this particular situation, the Commission was signaling a number to developers. He said that while he knows that when they did this part of the Comprehensive Plan in which they thought in broad terms, from his experience on the Commission, every applicant that comes before the Commission wanting to do a variance always points to a decision that the Commission made. He referenced Riverside being mentioned earlier.

Mr. Bivins said he appreciated Ms. Firehock's point that the Comprehensive Plan was something the Commission should use to steer its decisions by but not be chained to. He suggested that the Commission would be doing the community a disservice if someone does not recommend following the plan and if it needs to be changed, following the process to do so.

Ms. Riley asked the commissioners whether it would be helpful to hear Ms. Pethia's thoughts on this incentive zoning approach.

Mr. Dotson said he supposed he would like to hear from Ms. Pethia, if she was interested. He pointed out that it was somewhat unfair to spring the question on her.

Ms. More said the Commission incentivizing this was not presented as a new policy. She asked if this was what Ms. Riley was referring to.

Ms. Riley said yes. She said they were talking about allowing increased density for additional affordable units. She addressed Ms. Pethia, expressing that she was interested in any insights she could offer on this.

Mr. Keller noted that Ms. Pethia would be coming back before the Commission again that evening to discuss form-based code and affordable housing, and thus she did not need to provide all this information immediately.

Ms. Stacey Pethia (Housing Planner) said that she was, in principle, in favor of increased density to provide affordable units. She said that often times, this is the only way to make it financially feasible to make those units available. She said that even workforce housing units sell or rent below market rate. She said she thought it was a good way to incentivize provision of those units in developments. She offered to answer any questions.

Ms. More asked if she would have the same response for a by-right project that is at their maximum allowed density, according to the Master Plan for that area and the Comprehensive Plan. She asked if she would support them going over their recommended unit numbers in order to provide affordability.

Ms. Pethia replied that she would support this within reason. She said she wouldn't say that if they came back and said that they need 70 extra units to provide 10 affordable units, that this would be acceptable because it was not. She said that within reason, to balance this out, it would be a good incentive.

Ms. More said she wondered where they would draw the line. She asked if it would be to get 6 more or 10 more; or if the developer were to say that they were already getting 240 units or more on a by-right property, they will do affordable if they can have 40 more, which would all be affordable. She asked if this were the case, it would be okay to go over the recommendation, or when it would not be okay.

Ms. Pethia replied that this was dependent upon the site and the neighborhood. She said she would assume that most communities would not be happy for anyone to come in and say, "Give me 40 extra units so that I can give you 10 affordable ones." She said she would not like this in her neighborhood.

Ms. More said that it could be 40 units that are all affordable.

Ms. Pethia said that it goes on a case-by-case basis. She said it was something that needs to be addressed over the next year for the county to figure out what it is comfortable with. She said these numbers are often done in percentages (e.g. a 30% increase with half of the new units as affordable). She said the county needs to find a balance that it is comfortable with county-wide, then work on a case-by-case basis.

Mr. Dotson asked staff for the origin of the cap using the Comprehensive Plan on bonus density. He asked if this was something in the Comprehensive Plan, in the zoning, or something that staff has simply always done.

Ms. Nedostup replied that if a property came in that was by-right R6 and wanted to use bonus provisions, they wouldn't be eligible for them because in the zoning ordinance, they cannot go above the Comprehensive Plan recommendations by using bonus provisions.

Mr. David Benish (Planning Director) said the intent behind this was to enforce the Comprehensive Plan recommendations.

Ms. Riley said that in terms of the discussion, and though it was not a question for the Commission (but was raised earlier), the current housing policy does not provide for longer-term affordability. She said she was encouraged in the Performance Agreement with Habitat at Southwood that at least there was a requirement for those 75 ownership units to be held affordable for 30 years. She said she was hopeful that as the county develops its policy, going forward, that this will become a standard criteria or something longer. She said ultimately, the county cannot keep providing subsidies for the units every time they go to market. She said they do need to consider creating affordability in locations that are more walkable and closer to schools and employment.

Ms. Riley acknowledged that the Commission could not require this tonight and that they could not ask for it, but that it should be a consideration for any of the applications coming through to provide conditions of longer terms for the affordable units.

Mr. Keller said he was inclined to support the application. He noted that the Commission had not discussed the buffer or Albemarle's green line. He said Route 20 is a green line. He said there is a development area and a rural area, and that he believed (as a person who spends time on that section of Route 20) that having a protected buffer zone reinforces what he believes is a very important line.

Mr. Keller said that, thinking back to his question of closeness or proximity and in the spirit of what the Commission was working towards, if the applicant (during the next stage with the Board of Supervisors) could show a discussion between the developer and the school system to try to place some incoming Cale teachers who need workforce housing, it would be a great model in helping people reduce their household annual costs because they wouldn't have to drive vehicles if there was a bike-ped connection, and teachers and students could walk to school. He said that with these things said, he was positively inclined.

Ms. Riley asked if they were ready to make a motion.

Ms. Nedostup noted that the motions were challenging, as there were five of them, and the way they were ordered was with the rezoning first and the modification requests following that. She said that the staff report, on page 10, listed staff's recommendations on the modifications or changes that needed to be made to the application plan. She said there were a couple motions for the Commission to consider – one being in agreement with staff's recommendations; and one being in agreement with the applicant's ask for density, but with the changes to the application plan for the modification requests. She asked if this made sense.

Ms. Firehock said she thought it made sense.

Ms. More asked if the Commission was going to be given the option of staff's recommended density, but that stays within the limits.

Ms. Nedostup presented the motion options on the screen. She said that "A" is the recommendation by staff; and alternatively, "A1" is approval as requested by the applicant, with the changes to the application plan for the modification requests.

Ms. Firehock asked if Ms. Nedostup was suggesting the Commission to go through each one of the modifications, or if they could make a motion.

Ms. Nedostup replied the Commission could make a motion, depending on whether it wants to recommend approval.

Mr. Herrick said there would be a series of five slides, and that staff's suggestion was for the Commission to choose one option from each of the five slides.

Ms. Firehock said she already wrote her plan for motions.

Mr. Herrick said he wanted to clarify that the motions on the screen were mutually exclusive.

Ms. Riley said she wanted to be sure she completely understood the A1 Alternative Approval. She asked if the Commission was to recommend approval, as requested by the applicant, what the changes would be to the application plan, as recommended by staff. She asked what was being referred to.

Ms. Nedostup replied that this was referring to the street sections that were shown in the application plan, if the Commission was in agreement with staff's recommendations for the private streets.

Ms. Riley asked if this was Road D only and not for Road E.

Ms. Nedostup said this was correct. She said this would include the planting strips, sidewalks, and curb and gutter. She said there were two changes on page 10 that needed to be made. She read from that page, "The application is modified based upon staff's recommendation and the waiver request to revise the street sections and layouts," noting it included the layout of Road D. She said that if Road D becomes two public streets, she recommended that the right-of-way should be extended at the property line to the north, and a note should be added to the application for future right-of-way dedication, if the county chooses to make that future connection.

Ms. Riley said she was prepared to make a motion, unless there were other questions.

Ms. Firehock said the only thing she disagreed with in the staff report was that the applicant asked for a curb and gutter waiver on Road E, and she thought that this made sense, but that staff did not agree. She said she agreed with all of staff's recommendations except for requiring curb and gutter on the alley structured road (Road E).

Ms. Riley moved to recommend approval of ZMA201800012 Galaxie Farm for the reasons stated in the staff report as requested by the applicant, with the changes to the application plan as recommended by staff.

Mr. Bivins seconded the motion.

Ms. More asked if that with Approval A, if a motion had been made to reduce the density to match the Comprehensive Plan, they still would have achieved affordable units, but that A1 was giving them one additional affordable unit by going over the recommended total.

Ms. Nedostup replied yes.

Ms. Firehock asked if this that motion was for everything.

Mr. Keller said to clarify what Ms. More said, the Commission could vote this down and then move to the alternative, which would lower the density.

Ms. More asked if the motion on the floor was A1.

Mr. Keller said this was correct because they were working through the order that staff suggested.

The vote was split 3:3 (with Ms. More, Mr. Bivins, and Mr. Dotson dissenting; and with Ms. Spain absent).

Mr. Keller said that the vote was split.

Mr. Dotson said this meant it was not approved.

Mr. Herrick said this was correct – that it was not approved, because a tie vote fails.

Mr. Keller asked if there was a motion for the alternative.

Ms. More moved to recommend approval of ZMA201800012 Galaxie Farm for the reasons stated in the staff report, with changes recommended by staff to reduce the density to match the Comprehensive Plan recommendation, and changes to the application plan.

Mr. Bivins seconded the motion.

Ms. Firehock said she was confused. She asked if the Commission was then saying that if they vote for this motion, this would not go forward because the developer would not be able to do this development with the reduced density.

Mr. Keller said that this was for the developer to decide, not the Commission.

The motion was carried unanimously 6:0. (Ms. Spain was absent.)

Mr. Keller asked if they would then need to work through the five points.

Ms. Nedostup said yes, and that the first one was the private street request. She said that Motion A was for Road E only, for the reasons in the staff report. She said A1 (the alternative) was for Roads D and E, as requested by the applicant.

Ms. Firehock said that again, she was confused, because now they are talking about Road E, which may not exist now. She said Road E is where the affordable units were proposed.

Ms. More said there were still affordable units, and that the Commission did not vote to eliminate them.

Ms. Firehock pointed out that they do not know how the site plan will change now.

Mr. Keller asked Mr. Herrick to correct him if he was wrong, explaining to Ms. Firehock that the Commission could vote on this and then she could offer an amendment to remove the condition on the street that she was interested in.

Mr. Herrick said that if Ms. Firehock wants to make a motion and make this the original motion, this was her prerogative. He said there was a request, at that point, from the applicant and they were bringing this original request from the applicant forward to the Commission.

Ms. Riley moved to authorize the private street request for Road E only for ZMA201800012 Galaxie Farm for the reasons stated in the staff report.

Ms. Firehock seconded the motion, which was carried by a vote of 4:2 (with Mr. Dotson and Mr. Keller dissenting, and with Ms. Spain absent).

Ms. Nedostup said the next motion only had two choices – for approval or denial of the sidewalk modification request, noting that staff was in agreement with the applicant's request.

Ms. Riley moved to approve the sidewalk modification request for ZMA201800012 Galaxie Farm with the conditions and the reasons stated in the staff report.

Ms. Firehock seconded the motion, which was carried unanimously 6:0. (Ms. Spain was absent.)

Ms. Nedostup presented the planting strip request, noting that staff was in agreement with the applicant on this request for Road E.

Ms. Riley moved to approve the planting strip modification request for Road E for ZMA201800012 Galaxie Farm for the reasons stated in the staff report.

Ms. Firehock seconded the motion, which was carried unanimously 6:0. (Ms. Spain was absent.)

Ms. Nedostup presented the motion for the curb and gutter request. She acknowledged it was confusing the way it was laid out. She said that she put, in agreement with staff, to deny as the first option A; and that option B was to approve the curb and gutter for Road E.

Ms. Firehock moved to approve the curb and gutter exception request for Road E for ZMA201800012 Galaxie Farm as requested by the applicant.

Mr. Dotson seconded the motion, which was carried unanimously 6:0. (Ms. Spain was absent.)

Ms. Nedostup that the last motion was for the Commission to make a recommendation, with the Board of Supervisors ultimately making the decision, on the setback special exception. She said there were two approval alternatives: the first being for the amenity-oriented lots access by Road E only, and the rear setback for all lots accessed by Road E; and the alternative being for the modification request as requested by the applicant.

Mr. Dotson said he was still not clear on the difference.

Ms. Nedostup presented the plan on the screen. She said that in the exhibit that was provided for the request, the request was for the lots that were accessed by Road E, and that there were front setback requests and rear setback requests for the lots within that block area. She said staff believes it is appropriate for the setback (front and rear) for the amenity-oriented lots, and the rear setbacks that would provide access for the lots. She said, however, that regarding the front setbacks for the lots that front onto Roads A and B, she did not agree with the applicant that those should be modified from the minimum setback of 5 feet. She said she did not think it should be reduced to 3 feet in that location.

Ms. Riley moved to recommend approval of the front setback modification for the amenity-oriented lots accessed by Road E only, and the rear setback for all lots accessed by Road E, for ZMA201800012 Galaxie Farm for the reasons stated in the staff report.

Ms. Firehock seconded the motion, which was carried unanimously 6:0. (Ms. Spain was absent.)

Mr. Keller thanked staff and the applicant, stating that the application would be moving forward to the Board of Supervisors.

Recess

The Commission recessed their meeting at 7:39 p.m. and reconvened at 7:48 p.m.

ZTA201900005 Submittal of Special Use Applications

Ms. Lea Brumfield, Senior Planner in Zoning, presented the Zoning Text Amendment regarding the parties permitted to apply for Special Use Permits (namely, electric cooperatives).

Ms. Brumfield said that for context, currently the county requires Special Use Permits for energy and communication transmission facilities in all districts. She noted, however, that the only parties who can apply for Special Use Permits are property owners, contract purchaser (with owner permission), an owner's authorized agent, or an eligible easement holder. She said electricity in the county is provided by both large electric companies and a number of smaller, member-owned electric cooperatives, with these cooperatives being especially prevalent in rural areas of the county. She explained that as a provider of the vital public utility, electric cooperatives are given the right to exercise the power of eminent domain under the Virginia code.

Ms. Brumfield said that, however, as member-owned organizations, electric cooperatives are fairly unique. She said they are utility providers that have provided vital electrical services to rural areas since the Rural Electrification Act of 1936. She explained that this act funded electrical distribution systems in sparsely-populated rural areas and that previously, the people lived there with candles and oil lamps. She said after the act in 1936, many electrical cooperatives were created and provided electricity to those rural areas.

Ms. Brumfield said that though the cooperatives are technically private companies, they do provide a vital public service. She noted that the cooperatives are a narrowly-defined organization with very specific requirements regarding their government, by-laws, businesses they may engage in, and what they can do with their profits. She said the definition staff wrote in the proposed ordinance references those very specific Virginia code restrictions. She also noted that due to their smaller organizational size, co-ops can focus on providing service to a customer base that may not be in a densely-populated area. She said that where it may not be as profitable for a larger company to spend as much energy resources, electrical co-ops fill in this gap.

Ms. Brumfield added that because co-ops have member-owned leadership, they place an emphasis on environmentally-focused initiatives (such as solar shares) and energy savings audits. She said they also provide ancillary broadband services to their customers.

Ms. Brumfield said that in addition to the obvious benefit of reliable electricity, and the solid infrastructure for rural area residents, the provision of the improvements in expansion of the electrical grid (which would require Special Use Permits) can also increase energy efficiency. She said that along with energy savings and the solar initiatives, this speaks to the county's number one strategic plan goal of Climate Action Planning. She added that the ancillary broadband services the co-ops provide also speak to the strategic plan goal of expanding broadband in the rural area.

Ms. Brumfield said the only parties currently able to apply for a Special Use Permit are owners,

agents, contract purchasers, and easement holders. She said what this means is while electrical cooperatives may end up acquiring a property through eminent domain, they first go through the costly (and time-consuming) Special Use Permit process in order to become the property owner or easement holder. She said there is no guarantee that their Special Use Permit may be approved, which places a great burden on the co-ops, requiring them to acquire land that they may or may not be able to actually build on, and can hamper their long-term planning and building process.

Ms. Brumfield said the Zoning Text Amendment (ZTA) flips the order of the process. She explained that electrical co-ops will still seek easements from landowners, as this is significantly easier, but they may apply for the Special Use Permit before receiving the easements. She said if the easements are unable to be acquired, or if property owners are unresponsive (as frequently happens when landowners are out of state or owned by an LLC, trust, or corporation), the electric co-ops can apply for the Special Use Permit. She said that after they are guaranteed that they can use the land, then they can seek to exercise the power of eminent domain.

Ms. Brumfield said that this process does not exempt co-ops from any conditions of appropriateness, and actually brings the focus from the end of the process (when questions about appropriateness of use would be brought up, as well as environmental concerns and current or future land use plans for those parcels) into the front of the process instead of at the very end, when all the land has already been acquired and everything is on the line.

Ms. Brumfield concluded her presentation and offered to answer questions.

Mr. Keller opened the public hearing, inviting members of the public to come forward to speak on the matter.

Mr. Sean Tubbs (Piedmont Environmental Council) addressed the board. He said PEC requests that the Commission consider the item carefully and keep some important questions in mind as it proceeds. He said the PEC accepted the electrical cooperatives act in the interest of the public good but suggest that Albemarle County proceed with caution.

Mr. Tubbs said that unlike in the last time, where it was a matter of an individual application that may not have precedential value, in this case the Commission would be setting policy and should think about any potential unintended consequences that could result from this. He said this may not happen, but in Virginia over the past couple years he has seen what can happen when utility companies can use the threat in reality of eminent domain to secure easements for corridor-wide projects.

Mr. Tubbs said PEC feels that private entities, in general, should not have the ability to speculate on future projects by seeking additional rights to use private property before the utility has demonstrated a public need. He said this raises the question of what the public need is – if it is for broadband, electrification, or both. He asked by what process does the county go through this to identify the need.

Mr. Tubbs expressed PEC's concern that this could set a precedent where a public good to lead to the taking of a private property against the landowner's wishes. He said that although he didn't have any particular ideas or properties in mind, giving the electrical cooperatives the ability to apply for a Special Use Permit on land that they do not yet control (and may not control without a taking) could lead to infringements of private property rights.

Mr. Tubbs asked if the code can be amended to allow one non-owning entity the ability to apply for a land use permit without owning and securing that property, what would stop in the future another non-owning entity from coming forward and asking for the same ability.

Mr. Tubbs said the county's system of land use laws gives protection to property owners as well as neighbors. He said it could very well be that the amendment does result in the speedier delivery of electric services or broadband services, but asked at what cost. He said that considering the landowner who seeks to oppose the easement as well as the use of that land, they could potentially be doubly burdened by having to fight not only the taking, but also the Special Use Permit process. He acknowledged this was only hypothetical, but something for the Commission to keep in mind.

Mr. Tubbs suggested that it could be advantageous to also secure a local definition for what an electrical cooperative means. He said he looked at Section 3 of the code and that there didn't seem to be one. He offered that perhaps it would be a good idea to state what this means for Albemarle, given that as they know in the future, the General Assembly could potentially change those things. He said it would be better to secure the definition and give a vision for what Albemarle would want out of this and why they would be granting this particular request.

Mr. Tubbs said another question to ask is to what other Virginia localities have done and if this was part of a state-wide trend.

Mr. Neil Williamson (Free Enterprise Forum) said people describe the Free Enterprise Forum as being very interested in property rights, and he agreed they are. He said they are also interested in the economic vitality of the region. He said the Commission has before it a Resolution of Intent to move forward with an ordinance that his organization would carefully consider as Mr. Tubbs suggested. He said the idea that a co-op (which is generally a smaller organization) has to acquire all the land only increases the cost of the project, as well as possibly the viability of distribution of broadband across the 95% of Albemarle County that is designated rural (with the electric being closer to 60% as serviced by co-ops).

Mr. Williamson said that the idea of economic development and the idea of people choosing to live wherever they want as they can work wherever they want, provided they have broadband, is an important part of county's Project Enable strategy. He said this idea starts to move that forward and doesn't change anyone's rights under eminent domain or in acquiring the easement, but simply changes the order. He urged the Commission to move forward with the ordinance, adding that Free Enterprise Forum would review the ordinance carefully to make certain that property rights are preserved.

Ms. Valarie Long (Williams Mullen Law Firm) said her firm is representing Rappahannock Electric Cooperative in the process. She expressed her gratitude for Ms. Brumfield and Mr. Fritz, who have been helping them with the process over the past year. She said she was joined by several representatives of Rappahannock Electric, as well as Susan Steinmark (another consultant).

Ms. Long expressed that she thought the ordinance does include a definition for an electric cooperative that would become part of the ordinance and thus, part of the definitions. She said it was also important to distinguish between a member-owned cooperatives (like Rappahannock Electric) and some of their counterparts that have service in the area from Dominion Power, which is not a member-owned entity. She said more importantly, as others had mentioned, this merely

allows the application to be submitted and accepted by the county. She said the merits of the actual Special Use Permit application will continue to be reviewed, with the Commission having the full opportunity to review the merits of that proposal once the cooperatives have the ability to merely submit it.

Ms. Long said the cooperatives very much look forward to having this ability if the ZTA is approved in order to talk about the importance and merits of proposals. She said that most importantly, it will provide for a redundant system and a resilient system, in addition to the other benefits. She said through resiliency, it will enable Rappahannock Electric to get its members back online and have their service restored much more quickly than they would be able to do under the current system. She said they will have an opportunity to explain this in more detail at another time.

Ms. Long offered to answer any questions, noting that Ms. Brumfield's presentation covered the issues well and explained the challenges the cooperatives have faced. She said they have 19 parcels and roughly 15 landowners along the span of REC's territory and have not received a single objection from any of the landowners. She said it was merely a matter of a small number of those who have not responded to repeated requests, notices, phone calls and (in some cases) personal visits. She said those that they have heard from have signed the authorization form, and they continue to pursue those while working with staff on the ZTA.

Ms. Firehock said that the particular line Ms. Long referenced was not in her district, although she has met with representatives of other lines going on in her district and have spent a great deal of time talking about rural electric power. She said she lives in an area that is served by a cooperative. She said her understanding is that there is no change in the ability to undergo eminent domain, if needed, in either case – whether it is the current ordinance or the future one. She asked if this was correct.

Ms. Long replied that Ms. Firehock was exactly correct. She said that as Ms. Brumfield explained, it merely reverses the order of the process.

Ms. Firehock said that if need be, one could still exercise eminent domain and that the future ordinance would not suddenly give the cooperative a new power to exercise it. She said her second point was that she met about this particular line to look at the issues surrounding it and why. She said Ms. Long is looking to move forward with this and that it was her understanding that this had to do mostly with upgrades to the line to meet modern safety and power delivery needs, and that it was not proposing a new line or anything of this nature. She said in this particular case, it was not an attempt to try to get a new line across the county, but it was to get the lines they have to work properly.

Ms. Long replied that this was a good explanation. She added that it would be within the same existing corridor as a vertical extension of those lines with no new land acquisition other than a wider easement on one side, which is necessary for the higher height. She said it was an existing corridor, versus carving out an entirely new corridor through land where there is not one now.

Mr. Keller closed the public hearing and brought the matter back for discussion and action.

Ms. Firehock said she was sympathetic.

Mr. Dotson asked if there was a draft motion.

Ms. Brumfield replied yes.

Mr. Dotson moved to recommend approval of ZTA201900005 as shown in the draft zoning ordinance in the staff report.

Ms. Firehock seconded the motion, which was carried unanimously 6:0. (Ms. Spain was absent.)

Work Session

ZTA201900006 Rio-29 Form-Based Code
Rachel Falkenstein & Michaela Accardi

Ms. Michaela Accardi (Senior Neighborhood Planner) and Ms. Rachel Falkenstein (Principal Planner) presented.

Ms. Accardi said this was the third of four work sessions to receive the Commission's feedback on the Rio-29 Form-Based Code. She said they would be presenting staff recommendations of the topics of architecture, housing, and public space. She noted that several county staff were in attendance to serve as subject-matter experts to present and share staff recommendations on those topics. She said that following past formats for the work sessions, she would provide a brief overview of the project background and engagement, to date, and staff from the technical teams will provide an overview of their research, community engagement, and findings on each of the three topics.

Ms. Accardi said she would start by resharing the project goals that were established during the joint work session on July 9 to ensure the collective development of an ordinance that is consistent with the goals. She said the first is to support and incentive development that aligns with the vision described in the Rio-29 Small Area Plan through a by-right process that enables transition and flexibility over time. She said the second goal is to establish clear expectations for all stakeholders involved – residents, property owners, developers, and the county.

Ms. Accardi said the third goal is to find the appropriate balance between regulation and flexibility – regulation to achieve the desired form, and flexibility to accommodate market changes, creativity in design, and a mix of uses. She said the fourth goal is to develop the draft ordinance through inclusive and transparent community engagement to foster an understanding of zoning and form-based code across the public and diverse stakeholders across the process.

Ms. Accardi presented a slide of the timeline to note where the county was in the process. She said they wrapped up the summer community engagement in August, conducted economic development focus groups in September, and have been working through a series of work sessions with the Commission. She said there was one more work session scheduled with the Commission in November with the goal of bringing a draft framework to the Board of Supervisors in December.

Ms. Accardi said before moving into the topics, staff prepared a high-level summary of what they heard from the Commission during the September 17 work session. She said for streets, staff heard support on staff's recommendation to use street design standards outlined in the Small Area Plan to require local streets inside the Core to be subject to higher street improvement standards, as well as the need for public investment in transit alongside an updated ordinance.

Ms. Accardi said regarding parking, staff heard support for developing updated parking standards for Rio-29, as well as mixed support for a market-driven approach and removing parking minimum standards.

Ms. Accardi said regarding public amenity space, staff heard support for staff's recommendations to require a percentage of each development dedicated to amenity space, which would be determined by the property's character area, with the option to contribute cash in lieu.

Ms. Margaret Maliszewski (Community Development) presented. She said she would present on architectural standards, pointing out that Ms. Brumfield, Ms. Accardi, and Ms. Falkenstein all contributed to the work on this topic. She said in the context of form-based codes, architectural standards refer to regulations that control exterior architectural design, including materials and generally, the quality and character of the architecture. She said the Form-Based Code Institute considers architectural standards to be an optional element of form-based codes alongside things such as landscaping standards, signage standards, and environmental resource standards.

Ms. Maliszewski said research was conducted to see if other communities included architectural standards in their codes. She presented a list of those that they found, noting that Attachment 4 in the staff report on pages 3 and 4 provide more detail on each of those standards.

Ms. Maliszewski said Virginia Beach's Oceanfront Resort District is one form-based code staff looked at. She said it uses a broad and more flexible approach to architectural standards and includes several different scales for regulating the design including lot criteria, placement, height, and form. She said the form portion of the code addresses the architectural standards and includes transparency standards for the ground story and upper stories, with maximum blank walls permitted, as well as standards for the entrance location. She said the Rio-29 area does not have a defined architectural character. She said this approach could enable flexibility and creativity to create that character, but it could also allow for greater uncertainty in development outcomes.

Ms. Maliszewski said Boulder Junction's form-based code includes several architectural standards around façade materials, building construction quality, building façade elements, mechanical equipment and impertinences, building articulation, building massing, and building proportion. She said this approach is highly specific, comprehensive, and prescriptive. She said it can be more time-intensive and challenging for staff to develop this type of code without an established architectural character in Rio-29. She said this approach is more rigid, but it provides clear expectations for staff, community members, and developers.

Ms. Maliszewski said the Rio-29 Small Area Plan recommends conducting a visual preference survey to identify preferred architectural styles, materials, and character for the area. She said it also recommends adopting more specific architectural requirements to reflect the visual preference survey results, as well as incorporating minimum architectural standards into zoning (such as first-floor transparency and blank wall regulations) to create a visually interesting pedestrian environment.

Ms. Maliszewski said staff conducted a visual preference survey during the August 28 community event, and that there was also an online opportunity to participate in that survey. She said two sets of images were displayed, and participants were asked to vote for the images they preferred. She presented a slide showing the three images with the most votes for the Two- to Three-Story Building category. She said common themes across the three images include high-quality building

materials, transparency, façade manipulation, and landscaping along the frontage.

Ms. Maliszewski presented a slide showing the three images with the most votes for the Four- to Six-Story Building category. She said common themes across those three images also include the high-quality building materials, transparency, and façade manipulation but also includes cohesive blocks and variation in roofline.

Ms. Maliszewski said that for context and considering the Small Area Plan, the majority of properties in the area do fall within the Entrance Corridor Overlay District and are subject to ARB review and approval where development is visible from the Entrance Corridor streets (i.e. Rio Road and Route 29).

Ms. Maliszewski said results were also compiled from the economic development focus groups that were held. She said all the respondents recommended that county staff work to codify Entrance Corridor guidelines as part of the Rio-29 Form-Based Code. She said during the discussion portion of each of the groups, county regulation and process was identified as the top barrier to development or redevelopment in Rio-29.

Ms. Maliszewski said that looking at the form-based code research on architectural standards, and looking at the Entrance Corridor guidelines, staff found four primary features that are important to successful design in the Entrance Corridors and for establishing human scale and pedestrian-friendly building spaces. She said transparency is one of those features. She said Entrance Corridor Guideline #13 relates to transparency in that it strives to eliminate any appearance of blankness in building facades. She explained that by incorporating windows and doors into the design, blankness is relieved.

Ms. Maliszewski said that quality of materials is another important feature. She said Entrance Corridor Guidelines #9 and #12 address materials and colors. She said they identify material selection as a means of establishing compatibility and a cohesive appearance.

Ms. Maliszewski said that façade manipulation is another feature staff has looked at. She said EC Guideline #9 also addresses this feature, and Guideline #11 addresses it in terms of human scale.

Ms. Maliszewski said lighting was the fourth feature staff looked at, noting that the EC Guidelines address lighting in detail in Guidelines #21 and #26.

Ms. Falkenstein said that similar to previous formats, staff highlighted some discussion questions for the Commission based on key decision points that staff felt it needs the Commission's input on related to drafting the form-based code. She said the first question relating to architecture is, *"Should we include architectural standards in the form-based code and subsequently eliminate ARB review within the Rio-29 area?"* She said staff's recommendation is that they should strive to do this and incorporate architectural standards within the code, eliminating the need for ARB review. She said doing so can help incentive redevelopment, noting that this was something important that they heard from property owners and developers to help spark redevelopment within the area.

Ms. Falkenstein noted, however, that doing this is a big lift as the EC Guidelines are high-level and lack the specificity needed to turn them into regulations within the form-based code. She said staff, therefore, proposes an interim step though which a county-wide Certificate of Appropriateness would be developed specifically for the Rio-29 area that would be staff-approved.

She said criteria within the Certificate of Appropriateness would be identified that would relate to transparency, materials and color, façade manipulation, and lighting. She said those criteria would be developed in collaboration with the ARB and hopefully have this done in time for adoption of the form-based code for the first phase, with the longer-term goal of codifying the EC design guidelines.

Ms. Falkenstein asked for the Commission's feedback and offered to answer any questions.

Ms. Riley said she did not have any questions.

Mr. Carrazana suggested that developing the architectural criteria should be done with caution. He said campus planning at UVA and other institutions is, in a sense, a type of form-based code and the way they approach campus design. He said that while they have architectural guidelines, they are merely guidelines, and once there is prescriptive architectural design, creativity is limited. He said this could result in environments that are sterile or are "Disney-esque." He said there plenty of examples of this, such as housing in Chicago.

Mr. Carrazana said that design by committee is typically not usually a success. He cautioned the county in taking this approach. He said one could argue that UVA has a style and a pre-imposed prescribed design for its buildings, noting that looking carefully, UVA tries to bring technology, light, and new materials into that palette. He said in some cases they do this successfully, and in others they do not. He said where they don't succeed is when it falls into design by committee. He again cautioned the Commission and the county in being too prescriptive. He said it was not to say that they couldn't go into certain architectural elements to think about massing, setbacks, proper heights, and floor area ratios, and that the elements add to the character, to some degree.

Mr. Dotson said that part of the question posed to the Commission is if architectural review should be by the ARB (the current process) or be incorporated into the form-based code as a series of standards and principles. He said that he was not clear, between those two options, if Mr. Carrazana had a preference.

Mr. Carrazana said that he would not move it away from the ARB. He said the ARB includes professionals and people who are involved with design, whether they are landscape architects, architects, or planners. He said his experience is that the ARB provides good guidance, but they do not typically try to design the building. He said that once the county becomes so prescriptive at the staff level and eliminates the board, they are delving into design. He said this is the danger and that his preference would be to stay with the ARB because the people on the board have served the county well.

Ms. More referred to the graph staff had presented, asking how many respondents were there.

Ms. Accardi replied that four focus groups were held, and Ms. Maliszewski had cited the discussion portion that county processes and regulations were cited as a primary barrier to development, but only 17 people filled out the survey about ARB. She said she brought up the discussion portion to highlight that they were related, but that some folks left the focus group and didn't fill out the form.

Ms. More asked who made up the groups.

Ms. Accardi replied that they were made up of property owners in Rio-29 as well as members of the development community and real estate developers. She said they differentiated between the engagement with the visual preference survey for the public.

Ms. Riley said she thought she had read in the staff report that the ARB itself was asked whether they thought they should do the review or whether it should be moved over administratively to another body of staff. She said she thought the report said that the ARB felt that they should not do the review. She asked staff to elaborate on the conversation with the ARB and what recommendations they have.

Ms. Falkenstein replied that they did not get into the details of how the mechanics of it would work and what the content of the criteria would be, but that the ARB did feel it was a worthy goal to move in that direction for Rio-29 in the form-based code. She said the ARB recognized the efficiency it would provide, and that in and of itself would be an incentive to redevelopment. She said the ARB was supportive of the concept and would want to work with staff more to develop the content and the process for getting there.

Ms. Riley asked if with the reference "efficiency," the assumption was that this was a more streamlined process and wouldn't take as much time as going through the ARB.

Ms. Falkenstein replied yes, explaining that it would be a staff review Certificate of Appropriateness in the interim, and potentially longer-term, no longer needing the certificate but simply consisting of a site plan review.

Mr. Bivins said he heard mention of this being an overlay district. He asked how might staff imagine someone who wants to do a project there making a decision on whether or not to do it the known way that they do it now (which he assumes would include the ARB and other various things) as opposed to making a decision to do this.

Ms. Falkenstein replied that the overlay is mentioned in the staff report's housing section. She said if this were an overlay, it would be optional, and so someone looking to develop their property would look at either their underlying zoning (which, within most cases in Rio-29, is commercial) or the options that are provided to them within the overlay. She said if they opted into the overlay, they would have to meet all the requirements of that overlay, but the process would be different because if the ARB review was eliminated, they would no longer have to make an application to go before the ARB.

Mr. Bivins said the form-based code decision feels as if it has a different level of staff involvement. He said if the development community is stating that part of what they would like to see in changes is the time it takes to go from "A to Z." He said if part of that delay in the "A to Z" movement is something about the ARB, and perhaps the Commission and site review, and staff is replacing the ARB piece, if the county has enough staff to continue to flow the process. He said the last thing they would want to present the development community with is a new way that is supposedly easier to navigate, but then there is not enough staff to be able to pull it off. He asked if there is a staffing plan for allocating resources for this, as he would not want staff to be the roadblock on this initiative.

Ms. Falkenstein replied that they did not have a detailed staffing plan, though there has been discussion about how the staffing needs would be different with the form-based code. She said she could not say that there would be a one-to-one ratio of staff time but pointed out that there

would be less staff time spent on reviewing rezoning requests, which may free up staff time to do the administrative site plan review. She said that whether or not they have the skillset needed with staff or if they need additional training, she was not prepared to answer immediately.

Ms. Falkenstein added rezoning requests do not just involve the ARB – that if someone opted into the form-based code to do a mixed-use development, they wouldn't have to request a rezoning through the county and go through potentially several years of staff review to get approval.

Mr. Bivins asked if it was then considered a time tradeoff and benefit and an expertise benefit that one might expect to see from both levels. He asked if the period of issuing Certificates of Appropriateness would be for 1, 2, or 5 years.

Ms. Falkenstein replied that this had not been scoped out yet. She said staff wanted to get initial feedback from the Commission before moving forward with the concept.

Mr. Bivins commented that he would support anything that would signal to the development community that the county is engaging with them and trying to simplify their decision matrix, as long as staff has the energy and resources to make it work and not for it to become an additional set of hurdles to be navigated.

Ms. Firehock said that 20 years before, she sat in a form-based code workshop at APA. She said this was in California, and they pulled out the Toys R Us in Albemarle County as an example of what not to do. She said that hundreds of people in the room laughed. She said that she has seen architecture where it's obvious that someone said they need some columns, texture, or a café nod but it didn't work. She said the elements met the letter of the law, but not the spirit of the law. She said when they are overly prescriptive, they might be locking themselves into the architecture of whatever they think works for 2019. She said she would like to make way for creativity.

Ms. Firehock said she thought the county could get at form-based code without very specific, overly prescriptive forms and features it thinks it wants now, allowing the development world to come forward with something more creative. She expressed that there is a lot of architecture out there that doesn't give a sense of place. She said she has traveled to pedestrian malls all over the South but that they all look exactly the same with no character.

Ms. Firehock said the county could get at form-based code by including guidelines such as, "Structures that are of human-scale." She said the way Charlottesville structures its ARB is that it is the Planning Commission. She said that by looking at the principles of walkability, connectivity, human scale (not having giant, monolithic buildings like the Hoover Building in D.C., but things that are accessible), those principles can be written and articulated while allowing the architectural world to come to the county with the creativity it desires.

Ms. Firehock said she didn't have a strong opinion on the ARB but that whatever is done, if the county doesn't make it a streamlined process that gets the developer something better than simply going through the usual process, they will not get what they are seeking. She said the county needs to be "far out" and that she would like to see some bold architecture in Albemarle County.

Ms. More said she agreed with much of Ms. Firehock's statement. She said she was not sure if she understood the need to eliminate the ARB review. She asked if the delay in the ARB process was getting on their agenda. She asked if this was approached by doing what Ms. Firehock and

others have suggested, if it could still involve the ARB and move faster, or if it was a matter of slowing the process down because the ARB can only have so much on their agenda at one time.

Ms. Maliszewski said there is no issue with getting an item on the agenda. She said it is more of a perception that the ARB is just another process to get through and is that much more trouble.

Mr. Dotson asked how often someone receives approval in the first meeting versus going to a second or third meeting.

Ms. Maliszewski said that understanding the process is set up as a two-step process (with the first step being preliminary or initial, and the second step being final), if each one is taken individually, it is unusual for something to get approved the first time and not return. She said over the past several years, the ARB has more often offered work sessions to applicants so that they can come back more quickly to resolve issues. She said if the applicant is ready, this can happen at the next meeting.

Ms. More said she felt as there is an option in the middle that she would be more comfortable with, where the county allows for creativity and flexibility without being too rigid. She said she felt that even if they are very rigid, they can still have someone come up with something more creative than when they came up with the parameters. She pointed out that there is always going to be an applicant that will create something that wasn't what the county intended, yet it slips through. She said this was her concern – that it was going too far in the rigid direction and hampering creativity.

Ms. More expressed her concern that though the county can look at images from other form-based code areas that a small set of people in Albemarle responded favorably to, there was no anchor in the Rio-29 area to build off of. She said the report talks about an interim step as well as the lack of staff time to come up with very specific, comprehensive guidelines. She said it felt as if staff was asking the Commission if it was okay to proceed with including the EC Guidelines, but then drafting new architectural regulations in the allotted timeline for the project, expressing that there didn't seem to be time to do this. She asked if staff could explain what they were offering as a "dip your toe in the water" approach.

Ms. Falkenstein replied that staff recommended an interim measure through which staff would conduct the review instead of the ARB. She said as part of this, staff would come up with some criteria by which staff would review applications within Rio-29. She said this criteria had not been drafted yet, but that staff could accept the Commission's feedback to develop criteria that allows for flexibility and wiggle room. She said this was the interim measure because staff felt that developing architectural standards as specific as they would need to be for a form-based code was not something they could do in a short time frame.

Ms. More asked if staff would develop and review those criteria, not the ARB.

Ms. Falkenstein replied that staff would develop the criteria in cooperation with the ARB.

Ms. Maliszewski added that the interim step corresponds to what is called the county-wide Certificates of Appropriateness. She said there were several categories of those in place and that they have been in place for many years. She said those are types of ARB applications that are reviewed by staff for the ARB. She said those categories were all approved by the Board of Supervisors, and then the criteria were established by the ARB. She said in a sense, they have already approved those projects because those criteria are in place, with staff reviewing the

proposals to make sure they are consistent with those criteria.

Ms. More asked if this could be a step in the direction without "barreling down the road" and if they could back out of this approach, if desired.

Ms. Falkenstein replied yes. She said they could start there to see how it's going after a couple projects and see where they are as far as developing standards for an ordinance.

Ms. Maliszewski said the county-wide certificates do save staff time because they are not writing staff reports, going to the ARB meeting, or writing meeting minutes, action memos, and letters.

Mr. Keller asked if there would then be a record of the decision-making process that provides transparency to the public on how staff came about the decisions. He asked how the Commission would know if one entity (either within government, or from the outside) isn't going to put pressure on a supervisor in a decision-making position that can affect staff. He said it seemed that this was what the whole piece was about, and that he had been thinking about form-based code since the first time he went to Seaside, when it was being built. He remarked on how the congress of New Urbanism has come up and come down.

Mr. Keller said that he had concerns much like what Mr. Carrazana expressed. He said the county has not had a track record with historic districts because they do not have any. He said much of what these kinds of decision-making processes have been involved with in other communities have not been in Albemarle.

Mr. Keller said Nashville seems to be what many people were pointing to – not the examples that staff keeps providing. He said that Nashville has been a city that has "dug into the weeds" with form-based code and dealt with a series of the other kinds of overlays that would be the closest thing to corridor entry that Albemarle would have. He said he would like to know more about how Nashville's architectural component has been dealt with, acknowledging that historic resources are a part of it but more so, the massing and scale. He said he would like to then see this level of sophistication brought back to the Commission.

Mr. Keller expressed that when it is ultimately time to vote on the form-based code, it would be interesting to see how the county's elected officials will come down on what they will be giving up in the way of control to a staff decision that will be made at a series of levels.

Mr. Keller said he was not against form-based code. He said the city was spending over $200,000 using consultants to do this and that he had no idea what the county's staff time has amounted to. He said that perhaps this equals $200,000 of in-house work, which may well be better time and money spent as it is the county's own people thinking about it. He said he felt that at this point, having worked with historic districts his whole professional career, the presentation seemed to be somewhat light.

Ms. Firehock asked if Mr. Keller had called the presentation "light."

Mr. Keller said he thought it was a "little light" as to what is being proposed.

Ms. More asked if this was regarding content.

Mr. Keller said he meant it was light in terms of content and how the decisions will be made. He said staff was suggesting a "baton handoff," suggesting that perhaps they could allow for both processes to be working in tandem for a year (the ARB decision and the staff decision) and noting that it would be interesting to see how the two coincide. He said if they see after one year of evaluation that staff is doing as well, or better, of a job, there could be good reason to move the process in-house.

Ms. Riley commented that since it is an overlay, in theory, there are the two tracks. She asked what the basis would be for an evaluation and what would be evaluated, expressing that it would be useful to hear from staff on this in the future. She said she heard two or three of the commissioners making comments that they do not want this to be overly prescriptive. She said the two examples that staff provided were Virginia Beach (which provides for a lot of flexibility), and Boulder (which was much more prescriptive). She said she was not exactly clear on what staff was recommending, or if they were recommending something in between, or simply looking for the Commission to provide its input.

Ms. Maliszewski said that the two examples were provided to illustrate the extremes. She said the concept is that staff would be adding architectural standards, which would be more towards the detailed end of the spectrum.

Ms. Falkenstein added that they would be specific to the four categories that were highlighted, as staff felt those were important areas to focus on. She said they had not yet gotten deep into the content, as it was such a big topic and staff has been more focused on process and where the priority was to start. She said staff would come back with some recommendations after working through the topics with the ARB in order to provide the Commission with more content.

Mr. Dotson asked if it was legally necessary that there is a county-wide Certificate of Appropriateness. He said that part of what struck him was the contradiction – that it was called "county-wide," but that it was just for Rio-29. He said he then began to think that if the county wants optics to say that this is a streamlined process, he wondered why they would have a Certificate of Appropriateness (as it is another permit that is needed) and rather, why they wouldn't write into the form-based code whatever the standards are as clearly as possible.

Ms. Maliszewski replied that this was the goal. She said the county-wide Certificate of Appropriateness was the interim measure, acknowledging that it was an unfortunate name.

Mr. Dotson recalled that Mr. Carrazana had recommended caution, admitting that his own attitude was skeptical until he sees something in writing. He said he would like to be able to compare what the standards look like either through the Certificate of Appropriateness or form-based code versus the language that currently guides the ARB.

Mr. Dotson said the ARB does very good work – that the Commission receives their actions and minutes, and that the ARB provides a fairly extensive and successful review. He said he was skeptical that the county could create language that would accomplish the same result, expressing that there was an advantage to the qualifications of the people on the board for interpreting and applying general guidelines. He said he could be persuaded but that he would have to see some examples in the form of at least a few pages, if not a full set, of standards.

Mr. Carrazana said he has worked with other boards in Virginia (such as the AARB in Richmond). He said that the experience and benefit to a project of having comments from people of that caliber is very helpful. He said people in the ARB and similar boards are people who are committed to and understand their community and have been practicing in that community for decades. He said that this was not to take away from the county's great staff, but that having the ARB was a benefit to a project and that he wasn't sure how it could be replaced.

Mr. Bivins said he reads the ARB meeting minutes every time they are sent. He said he is puzzled at times about the color of the brick, color of the sign, and window sizes and why this was important in situations such as Flow Mazda and Audi, for example, when there is no unifying character in the area. He suggested perhaps having a panel of experts made up of staff who could talk to the ARB about these kinds of things. He said that sometimes it feels as if the ARB is over-programming something to align with the institution as opposed to aligning with the community, and that it seems they are sometimes too traditional in their approach. He said this was his opinion, as a reader of the meeting minutes, as opposed to being more forward-looking in what they are allowing.

Mr. Keller said that these are the individuals that are appointed to that as opposed to staff in a room with no outlet.

Mr. Bivins said that they were then talking about what the outlet would be to see this.

Mr. Keller said no – that he was talking about the decision by a small group of people in a room that are not having people in the audience weighing in and commenting on.

Ms. More said that her hope was that the interim step would help. She recalled the L.L. Bean project, through which the company had wanted to display different color kayaks, but the ARB countered that they all have to be brown. She said these are the kinds of things that are frustrating for people who are trying to keep their company's signature look. She asked how the county could get out of this approach and allow for creativity to happen without ending up with another Toys R Us example. She said that what the Commission is being asked to do is release control, or ultimately have other people release control, and that this makes people uncomfortable because they know there are always "what ifs." She asked how to step forward with this and what staff's suggestion would be.

Ms. Maliszewski said to keep in mind that the L.L. Bean issue was an outdoor display issue, which was a different sort of issue.

Ms. More asked if they did not get to put up the colored kayaks.

Ms. Maliszewski replied that they did put them up, but in a different location. She said another thing to keep in mind is that the whole basis of the ECs is that new development is supposed to be compatible with the historic architecture of the county, but that this bit of it did not have to carry through to the Rio-29 area. She said some of the comments were to why something was colonial brick, and that this was because it is supposed to be consistent with the historic architecture of the county.

Ms. Falkenstein said that for the housing section of the presentation, Ms. Pethia would first give an overview before moving on to the next discussion question.

Ms. Pethia said that housing is, in many ways, the heart of vibrant and sustainable communities. She said when it is built well, is well designed, and is located near services and transportation, it can create vibrancy in an area, promote economic development, and support environmental sustainability in the area. She said she would focus on affordable housing.

Ms. Pethia said that affordable housing in Albemarle County is defined as any unit that costs no more than 30% of gross household income. She said that for households with incomes at or below 80% of the Area Median Income (AMI) for the Charlottesville Metropolitan area, currently the AMI for the area is $89,400 per year. She said that for a family of four, this equates to $71,500 annual salary; or for a single family, it is $50,050.

Ms. Pethia said that particularly for the proffered units in the county, the county considers for-sale housing affordable when it is priced at $243,750 per unit.

Ms. Pethia said for rental housing, the county follows HUD's fair market rents, and so for a two-bedroom apartment, this is currently $1,262 per month; and for an efficiency, it would be $854. She said both of these price points are geared towards the 80% AMI category for rental housing, and if one has some sort of rental assistance, such as a Federal Housing Choice Voucher, they can take the affordability down further.

Ms. Pethia said the current housing policy encourages the inclusion of 15% affordable housing for any residential development project that receives approval for a site rezoning or Special Use Permit, and that this 15% of affordable housing could be for sale or for rent for families who are making 80% or less of AMI. She said the developers may also make a cash in lieu payment instead of providing those units. She said the county also offers a density bonus to developers in exchange for the affordable units, which is a 30% increase in density in exchange for 50% of the additional units being provided as affordable housing.

Ms. Pethia said that regarding the Rio-29 plan, it recommends requiring a mix of affordable workforce and market rate housing. She said that where this cannot be required through zoning, it encourages a mix of housing types through incentives such as height or density bonuses, parking reductions for the inclusion of affordable or workforce housing.

Ms. Pethia said that she and staff conducted research into affordable housing in other form-based codes and found that there was not much – that most form-based codes do not address affordable housing. She said that Arlington County does put affordable housing into their code and does it in a series of different ways. She said they place their focus on bonus height and density provisions and that they also offer other packages of incentives within their overlay districts.

Ms. Pethia said staff conducted further research and found other types of incentives for affordable housing outside of form-based codes. She said Flagstaff, Arizona does not have a form-based code but does have a program of affordable housing incentives. She said the city's incentive policy for affordable housing encourages the production and preservation of affordable housing with developer incentives such as fee waivers, expedited review process, reduction of parking standards, and flexible design standards.

Ms. Pethia said Flagstaff offers fee waivers based on the percentage of affordable units and provided at the AMI level served. She said in this way, they are able to encourage the provision of housing for lower-income households by providing additional incentives to offset the cost of development.

Ms. Pethia said Las Vegas also offers bonus height incentives for affordable housing. She said Section 19.09.100i of the city's form-based code outlines the attainable housing bonus incentive, noting that the city has stopped calling it "affordable" and now refers to it as "attainable." She said the incentive provides an additional 1-6 stories for buildings in exchange for a percentage of affordable units. She said the greater the percentage of affordable units a developer offers to build, the higher the number of additional stories that is granted.

Ms. Pethia said affordable housing was discussed in the community outreach, as well as the incentives that were proposed for the form-based code. She said the majority of the respondents in the discussion groups and online surveys (47% overall of the respondents) supported a mandatory 15% affordable housing requirement in the Rio-29 area. She said that comments in support of the affordable housing requirements included, "A clear need for more affordable housing that is close to transit," "Critical shortages of affordable housing in the community," "Long-term residents are being forced out," and "A diverse population promotes a vibrant community," adding that there were also suggestions to redefine affordability on a sliding scale, such as what is done in Las Vegas.

Ms. Accardi said that discussion question number two is, "Should we regulate density through form-based code, such as setting a maximum or minimum density limit measured in dwelling units per acre?" She said staff's recommendation was to not require a density maximum or minimum in the form-based code, given that form requirements drive development of the area. She said the form-based code ensures the scale and character of development is consistent with the Rio-29 vision and that allowing flexibility on density enables greater flexibility in use for property owners, permits a variety of housing options, and supports a market-driven redevelopment approach.

Mr. Dotson said he was comfortable with not regulating density because they are regulating the mass of the building and space. He said that the county does, however, need a gauge for deciding what parking would be required.

Ms. More agreed that it was appropriate to allow for the flexibility. She said when staff made reference to the previous work session and not permitting single-family residential uses, if they were saying that this could happen, the code would say where this would be allowed to happen if one should do this. She said in her mind, this would happen along Edges and not in the Core.

Ms. Falkenstein said this was correct.

Ms. Firehock said the answer to Question 2 was no.

Mr. Keller asked which part, as there were two parts.

Ms. Firehock replied that she didn't think there should be a minimum or maximum density.

Mr. Keller said that this was in agreement with staff.

Ms. Firehock said that she was agreeing with staff.

Mr. Bivins said he stood with staff and didn't want parking but better transport, and electric cars. He said if the county could get away from structures having to be linked to parking, they could be creative about how to allow the developer to supply the appropriate parking.

Mr. Keller said he supported staff's recommendation as well. He asked Ms. Pethia and Mr. Herrick if, at that point, they had the figures on how many affordable units (using the $243,750 figure, or less) the county has in the Rio area. He said that as pointed out at the housing conference, if the county is going to lose 150 units in a development, the question is how these will be counted. He asked if they would have a negative 150 and therefore 15% would only give them 20 units, or would they start off with the 150 units having to be made up in that development before the 15% could happen. He said. he did like the interesting point about the 15-10-5 depending on the percentage of AMI. He said he was much more comfortable with staff's approach on this point, versus the first one.

Ms. Riley said that she agreed with staff's recommendation on Question 2. She commented that for the incentive zoning, there needs to be some economic analysis, and that the Rio-29 area was a great opportunity to experiment on what the analysis should be and how it could benefit in terms of typology and how different types of housing are incentivized with increased density, via an addition in height or a reduction in parking.

Mr. Carrazana also agreed with staff. He said that if they deal with the massing and setbacks, they could get to the density they are looking for without prescribing units. He said that if parking could be decoupled from projects, it would be very useful, which means the county needs a strategy of how it deals with cars in the district. He said that at least in the short term, the county may need to deal with this, but that they should think about decoupling the parking from every single project.

Ms. Firehock said that otherwise, they can't do a parking garage where everyone pays in as easily.

Ms. Accardi said that since there seemed to be consensus on Question 2, she would move on to Question 3, which read, "Should we require a minimum percentage of affordable housing as incentive zoning?" She said this was assuming that the code is structured as an optional overlay. She said staff recommends requiring a percentage of affordable housing within each new residential development, and that the percentages be applied on a sliding scale to incentive development of a range of housing affordability levels. She said the recommendations are that 15% of units are affordable at 80% AMI, or that 10% of units are affordable at 60% AMI, or that 5% of units are affordable at 50% AMI.

Ms. Accardi said that in addition to the required affordable units, staff recommends additional bonus factors be available such as height bonuses; reduced parking requirements; modification and reduction of step backs, setbacks or other architectural features; and ground story use requirements for the provision of additional affordable units.

Mr. Keller said that he agreed with what was just proposed, but that he had a concern (in any major redevelopment area) that there could be a significant loss of affordable housing by the definition that Ms. Pethia provided in each of those categories. He asked that in this case-by-case situation in which there is such a development, if there will be a policy for that loss. He asked if Ms. Pethia could weigh in on that thought, adding that he was specifically thinking about Commonwealth Drive.

Ms. Pethia said that if the form-based code is applied as an overlay district, she was not sure that they could require one-for-one replacement of units. She said that a tenant relocation assistance policy would be coming in the future that would apply to any projects that had to go through a rezoning process or Special Use Permit that would either demolish existing units that are affordable (or any units in general). She said the idea was that if units were going to be demolished and replaced with a higher-value unit of any type, or if existing units will be rehabbed so that the cost went up, the developer would have to help relocate the residents to comparable units elsewhere. She said this would not apply to an overlay district, and that she would have to look into that.

Mr. Keller said that in areas that are being reworked, it was another flip side of what is called gentrification in a more urban construct. He said the county has many urban-style townhouses and detached houses that would fit in those cost definitions and would be difficult to replicate at that cost point, at least in mass.

Ms. Falkenstein said that Columbia Pike has language in their code about existing units and either protecting or replacing them, and that staff could look into this to see what they are enabled to do through a form-based code and see if there are tools they could apply.

Mr. Keller said that from all the housing conferences he has gone to, there is significant concern about what is being lost in the name of gaining the new, and that often times the numbers do not even break even.

Ms. Riley said she had this concern as well. She said she didn't know if they would solve all the potential unintended consequences through one tool, like incentive zoning. She said, for example, with apartment complexes in the Rio-29 area, there should be a parallel track in the affordable housing policy of when low-income housing tax credit apartment complexes terms expire. She said they have a prioritized list of apartments that the county would figure out how they can be recapitalized, and those terms can be extended. She said there have to be additional strategies and tools developed besides incentive zoning only.

Ms. Riley said she agreed with the staff's general recommendation about Question 2, recognizing that it is an overlay. She said she was concerned about the specificity of the breakdown of 15% of the units affordable at 80% AMI and down the line because there are other variables to look at in terms of the affordability term, etc. She said that this could be a fairly complex economic analysis about what the county truly wants to incentivize and that she didn't think it was as simple as having a linear process of identifying less percentage based on reaching lower AMI.

Ms. Pethia said the scale was based on several different programs across the country and was typical in many other cities where an order to incentivize the lower-income units decreases the percentage of units that are required, and that they offer additional incentives on top of that.

Mr. Carrazana said that this makes sense and it is common to incentivize it. He said he didn't know if the numbers were perfect or if he had enough information to say otherwise.

Mr. Bivins said that over the course of numerous discussions, the Commission (and particularly, Mr. Dotson) has talked about the idea of how to create workforce housing. He said that while he didn't know how the county would do it in Rio-29, if they have commercial development that will push a demand for housing, there could be a creative nexus when any development that happens

in Rio-29 that would involve either a contribution, fund, or partnership that buys into an LLC to create housing there. He said if the county is trying to create a place where people work, live, and shop, it would be helpful to tie this to commercial development. He said in other words, if commercial development comes to the area, the county presents them with what they can help them achieve for their workforce.

Ms. Pethia said she did not think they were allowed to have a way to have commercial development pay into a fund that could be used for workforce housing.

Mr. Herrick said he was not aware of anything about this.

Mr. Bivins said that this was voluntary – that it would be encouraged for someone to invest in this. He noted that in other places in the world, commercial entities will help their workers live nearby. He said the county should have a holistic conversation with both people who are being attracted to the area and people being retained that there is adequate housing, and if they only put the onus on residential development, it will not happen. He said there would be some code to figure this out.

Mr. Bivins said that one of the reasons Klockner went to Gordonsville was because they could put some cottages on the property, which helped many people. He said maybe this could be done with taxes, with tax rebates done over a number of years. He said he was not necessarily trying to do that, but he was saying that if the county was trying to ensure that there is workforce housing, if they only rely on residential development, they could redevelop Route 29 in ways that has nothing to do with residential development and therefore would not have advanced the issue.

Mr. Keller said that with form-based code, they are not dividing up residential from manufacturing.

Mr. Bivins said he knew this. He said he was suggesting that if they are looking at a housing discussion and only look at residential development, this was only half of the equation. He said staff was creative and that there was a way to look at an additional part of the equation as far as considering the commercial entities that are invited to the area.

Ms. Riley said that in many places, this is called "linkage fees" and is a form of impact fees on commercial properties for affordable housing.

Mr. Bivins said he didn't know about linkage fees. He said this was only one piece of it and that he could see Route 29 going in a different direction in which it would be dedicated to innovation with no residential area there.

Mr. Carrazana said with form-based code, they would be discussing multi-use development. He asked if it was multi-use development, housing would be embedded with commercial, and if there would be opportunities for workforce housing to be incorporated in that conversation as well.

Ms. Pethia replied that there would be opportunities for mixed-use workforce housing on site, but it wouldn't be a requirement. She said there could be a scenario with a giant office or commercial development that has no housing component to it. She said the county was not looking to require housing on each site.

Mr. Keller said that the county could actually require it.

Mr. Bivins said he was not trying to suggest this, but that his concern was if they are only talking about affordable housing in residential development, it leaves out a portion of what they are expecting to have happen there, and if there was not a way to perhaps craft something to allow this to happen.

Ms. Pethia said that this would cover the residential component of a mixed-use project as well.

Ms. Firehock said she did not have any particular objection to this. She said she remained concerned about the permanence of it – that a condo, for instance, comes in and five years later, everyone sells their units, gets rich, and the county has lost its affordable units. She said this was not a fault of Albemarle County, but is a problem with how affordable housing seems to work. She said she often sees where the housing is provided, but it does not last. She said this was a larger discussion about the county's lack of progressive affordable housing policy.

Ms. Pethia said that this was a conversation that was happening.

Ms. Firehock acknowledged this was happening and noted that they were not trying to tackle everything that evening.

Ms. More said she was generally supportive of the idea of incentivizing affordable housing. She said she wouldn't say that there are no caps, but if they are clear with people who might choose to build or invest in the area that this is the expectation, they should not be surprised to find that someone else came in with many bonuses and got much more dense than something that was next door. She said she was comfortable with this because it gives the developer the opportunity and the knowledge, if one chooses to build there, that it could take place.

Ms. More cautioned about getting extra stories, acknowledging that there were creative ways to go up in height, with step backs and setbacks, but that this could also go badly. She said earlier, staff showed images of buildings with different facades, and that her opinion was that buildings could be too high. She said she could not imagine endlessly going up in stories. She said that overall, however, she was supportive, but in order to achieve the feeling for the pedestrian in that area, there would be some limit to this.

Ms. Pethia said it would not necessarily have to be additional height bonuses, but that they could use any of the other incentives. She said that for height bonuses, they could also put a cap on how high those could go. She said if someone intends on building a three-story building and will place 15% affordable housing there, then wants to go to 20% affordable housing for an additional two floors, the county could leave it within the six-story height limit.

Mr. Dotson said that when the Commission discussed building height, one of the things they anticipated was affordable housing. He said that the suggestion was four stories by right, and a fifth story if providing some incentives. He said that perhaps this is how it would translate into form terms.

Mr. Dotson said he supported staff's recommendation, but that he had some thoughts about incentives. He said Andrew Knuppel's Growth Management Report showed that most developers have been significantly underbuilding what they could build and therefore, no one will go after the incentive if more density is the incentive. He said that perhaps this could change over time but that, so far, that incentive has been ineffective.

Mr. Dotson said that as the Commission keeps talking about incentives, what he would like to see is a scorecard from a developer's point of view, which would include what would be done in current zoning and what could be done in the optional form-based code in terms of what would be gained and the obligations they would take on. He said that if the form-based code option is elected, affordable housing would be required. He said he would like to see the entire list of requirements and gains from the developer's standpoint and, at some point, make a judgment as to if they are achieving the right balance, and if the options or incentives will work.

Ms. Firehock said this was an excellent point. She said she once worked on a project in Northern Virginia where they came up with many incentives, and then a roundtable of developers and real estate holders said that half the things they came up with as planners were not incentives. She agreed with Mr. Dotson and added that incentives work very well in tight, desirable places (e.g. Downtown Charlottesville) where the developer is willing to pay the price. She said there is still a lot of property available in Albemarle County in the urban ring, in terms of redevelopment, which makes it challenging to try to satisfy all their aims in form-based code.

Mr. Dotson recalled that months before, the Barnes Lumber application was before the Commission, and one of the approved uses was a hotel. He said he began thinking that this could be 20-50 new jobs, and about how much they added to the affordable housing burden. He said he would like to be able to say that if someone wants to build a hotel, they would also have to build affordable units, and if they did not want to do this, they would find someone who would. He likened this to forming a deal with shared parking. He said one could build the housing while the other builds the jobs, and that this would create balance in the community.

Ms. Accardi cited that in Attachment 7, for the economic development focus groups, staff asked them about the most meaningful incentives the county can offer to stimulate development. She said that some were related to the ordinance, and some were related to associated policies or programs. She said they heard, "County infrastructure investment" (given that there is a significant expectation for roads and new local street development in the area), "Expedited approval process," "Tax breaks," and "Other," which consisted of a mix where a list was generated for potential incentives such as height bonuses and architectural elements.

Mr. Andrew Knuppel (Neighborhood Planner) said the Arts in Place discussion would focus on ways that the regulatory and development process can help support creative and collaborative work in the arts in Rio-29. He said one of the earlier discussions was around the prescriptive nature of the form-based code and how room can be left open for creative and artistic merit. He said that much of the focus with this topic was how to find place-making creative opportunities and solutions to take on some of the issues that the area faces.

Mr. Knuppel said the Small Area Plan calls for exploring public art as one tool, along with way finding and other design choices for the public. He said they have talked about the desire to transform it into a "place" rather than how it is currently perceived. He said that in looking at the form-based code, they did look at some precedent examples, but that because it was new territory as far as a Virginia locality taking this on, the examples are from out of state. He said the county is able to provide bonuses for public art as a site design component.

Mr. Knuppel said staff looked at two case studies, with the first one being in Bradenton, Florida with their form-based code. He said that in certain project areas, the projects are required when they have a construction evaluation in excess of $250,000 for residential, mixed-use, and public facilities to include a budget for public arts. He said this is a requirement in Bradenton and is

equivalent of one-quarter of 1% of their pre-bonus construction evaluations, and so they look at the cost of the project and dedicate part of it towards a public art fund. He said they do provide a bonus of three-quarters of 1%, so if a developer contributes 1% of the project budget money to the public art fund, they qualify for a height bonus.

Mr. Knuppel said that Bradenton specifies public art as a permitted use, with more specificity about what this is. He said he didn't believe that Albemarle County currently defines this in its ordinance. He said Bradenton's list of permitted media includes paintings, carvings, frescos, mosaics, mobiles, statues, _ reliefs, and other objects that are not considered to be public arts (e.g. reproductions of original work, mass-produced objects, historic preservation or rehabilitation, logos or interpretations of logos). He said there are some location requirements about this, including that it must be located outside of buildings visible from the public right-of-way or on a façade that is publicly viewable so that it is truly public art and not something hidden inside a plaza. He said it must be accessible and meet the criteria.

Mr. Knuppel said the second case study staff explored was the Downtown Colorado Springs form-based code. He said that building off of the conversation about different types of incentives, they use a point-based system for bonuses, and one factor that they consider is public art as part of this. He noted it was not as sophisticated as the Bradenton example but does still require a location (i.e. must be within a plaza or entryway feature to be visible from outside, in the public realm) and similarly, requires 1% of the budget to be dedicated to art or cultural amenities. He said it also allows museums, art galleries, and other cultural facilities to qualify.

Mr. Knuppel added that Colorado Springs has a requirement that the art must be approved by the Art Commission of the Pikes Peak region. He said it is moved from what types of specific artwork or media into an approval process by a different board or Commission that is active in the area.

Mr. Knuppel reiterated that there is not much tied to a form-based code or zoning in general in regard to art, as they recognize that prescriptiveness and public art do not always work together. He said staff learned that culture and art is important to the area and the question is to how to provide for that. He said that in regard to stakeholder feedback, 89% of respondents believe that public art should be incentivized and that there is a strong hope to see Rio-29 become more of a "place," with public art being one such tool.

Mr. Knuppel also said they acknowledged some of the challenges of the current environment and the anonymous nature of sprawl, with the question of how to encourage art as the area redevelops and transforms over time and how its public art will create more of a place of where people want to be while having a creativity and identity associated with it.

Mr. Knuppel said that staff knows that form-based code is one potential tool for this and recommends undertaking a comprehensive cultural planning effort to be completed and coordinated with the wayfinding program of the area to support the development of this identity. He said the planning process should include the appropriate structure for accepting public art bonuses, reiterating that Colorado Springs has the Pikes Peak Art Commission and that other groups may have public art advisory boards or Commissions that weigh in on those matters.

Mr. Knuppel said staff also recognizes that public art (the actual display of it) is just one part of creating a cultural, creative environment and also wants to make sure they encourage the uses by providing flexible use and permitting requirements similar to what was discussed with the small-scale makers space, manufacturing, or artisan zoning to make sure they provide room in

the rezoning for studios and arts use over time. He said they also want to allow permitting requirements for temporary pop-up events to allow for creativity in the area.

Ms. Falkenstein said the discussion question for the arts is, *"What type of bonuses are appropriate for public art provision?"* She said staff's recommendation is that they do provide bonuses for the provision of public art, similar to the way Bradenton calculated those bonuses, which would be based on a percentage of the evaluation of the project. She said staff believes public art should not be prioritized at quite the same level as affordable housing and is not recommending height bonuses for public art, but perhaps other bonuses such as reduction in certain site design requirements.

Mr. Keller asked for an example of this.

Ms. Falkenstein said they could do a reduction in architectural requirements, parking requirements, first-floor transparency requirements, etc. She said that broadly, staff was looking at coming up with a matrix of incentives to bring back to the Commission in November.

Mr. Carrazana said it makes sense that the county is trying to create a "place" there. He said that he liked the idea of not just dedicating 1% for the arts, as it was nothing new, but that there are also open spaces there, which can be incorporated as art as a way to incentivize the broader vision that they are trying to create. He said he liked the pairing of not just having a sculpture, for instance, but it can be part of an open space the developer enhances.

Ms. Riley said she liked the staff recommendation.

Mr. Keller agreed. He said he has worked in several institutions with the 1% for art for buildings and that the sum total effect that this can have over time was amazing. He said that starting with a fresh palette, as they are in Rio-29, could be significant.

Mr. Bivins asked if the county can have 1% for art, why they could not have 1% for housing.

Mr. Herrick said that the county was not exactly enabled. He said that what is called "incentive zoning" is enabled for counties like Albemarle under the Virginia Code. He said the linkage fee is enabled for Arlington County, but Arlington County is the only one that is enabled to do commercial linkage fees for affordable housing. He said the county would have to request special enabling legislation like Arlington County currently has.

Mr. Bivins said that this would then hopefully be part of what staff discusses. He said he was all for the staff recommendation, but asked Ms. Accardi to go back to the beginning of the presentation. He indicated to an image that showed weeds in a median (which he referred to as the "zombie median"), noting that it could have a plaza with art in it. He said to remember what is happening with the Art in Place people – that the community does not do art very well. He said it has sunset clauses on people's energy around art in place. He said that his concern was that this would be nice for the first iteration of the project, but as someone moves out and there is a lesser endowment of the spaces, he would rather have mosaics.

Mr. Bivins gave an example. He said in the Rio District, there is Charlotte Humphreys Park, which has taken much wonderful energy by the people in that CAC to get the county to even think about mowing or taking out the underbrush. He said he could not tell them the number of houses that are around the Charlotte Humphreys Park. He said if this is an existing, extent piece of property

that has taken as much energy as it has for people to do underbrush work, he couldn't imagine what it would take to get something artistically maintained in that area. He said that whatever the county does, they need to consider how it will continue to be maintained and what funding and resources would be available to make the art in place not look like the "zombie intersection."

Ms. Firehock said that her simple answer was that she did not have any objections to what was proposed – the idea of having 1% dedicated to art. She said a couple thoughts came to mind – firstly, that she was concerned or curious as to how they can brand the areas or subsets of the district (in other words, to help encourage the identity). She said it is easier in an already-developed community where there are many existing warehouses and it becomes a Warehouse District, with icons, arts and music that go along with this. She said the Neon District in Norfolk was a place that rose organically by creative people doing creative things there, but the city then took the branding from the district and now has a branding that goes along with it.

Ms. Firehock said that she thinks the county would benefit by having a larger conversation about what they can do to encourage the arts and spaces for artists. She expressed that perhaps there was some element within the work in the new district where if they truly want to pull in the arts and artistic people, consideration should be made as to how developers will put in art to get the incentive, suggesting that perhaps they would take an easy route with art that is more ready to go. She suggested that the county may rather want to focus on art festivals or provide subsidized spaces for artists and creative people. She said there were many ways to do something with the arts with the district.

Ms. Firehock said that her mother was an artist and that she grew up going to art gallery openings. She said she has spent a great deal of time with the arts community, and that there was much more to it than someone possibly Commissioning a corporate piece of art. She said she understands how art in place works and the controversies associated with it, and the judgment of what is art. She said the proposal, as it currently stood, fell flat because she didn't know that the county will get what it wants simply by asking developers to contribute money for art that will go somewhere.

Mr. Bivins said he was also concerned. He said if this was the same population of respondents, he was struck that more people were interested in having art than they were affordable housing. He expressed that this was very unfortunate.

Ms. More said she liked the idea and that staff should continue to explore what this looks like in different localities and what this might look like for Albemarle.

Mr. Dotson said he supported staff's recommendation. He said that the staff report included one sentence that talked about artists and lower-rent areas, a community, etc. He said that poses another layer of questions as to how the county gets live-work spaces for artists, lofts, warehouses, etc. to get the people there and not just the objects.

Mr. Keller said that this was by having existing places already built that no one else wants. He said this was answer and was also true all over the world.

Mr. Bivins said that there are many cities that have areas with buildings that have spaces for art, and that they are residential buildings. He said that perhaps there is a special dispensation for those developments that include fluid wall space.

Ms. Firehock said it was almost as if there could be a credit for providing lower-rent studio space, which could be more valuable than an object.

Mr. Bivins suggested they were discussing how to craft the environment into a place that it won't go naturally.

Mr. Keller said that Blue Moon was claiming to do this.

Mr. Dotson said that a second thought, using Ms. Firehock's term of "branding," the county should consider four different brands for the four quadrants. He suggested there could be a "Fountain District," "Garden District," "Plaza District," and "Market District." He said it would be difficult to brand the entire area as one.

Ms. Firehock said they could create a cache around this.

Mr. Dotson said it seemed that there needed to be some kind of approval process or committee, particularly if there were, as Mr. Bivins suggested, a fund for maintenance and upkeep and perhaps a turnover.

Ms. Firehock suggested this could keep the art fresh.

Mr. Dotson agreed. He said that some kind of approval process or championing group of people would be necessary.

Ms. More said she liked this idea, adding that having participated in discussions about programming for the plaza in Crozet, there are many identities that they could take on (e.g. railroad or orchard themes). She said what they did with the consultants was they tried to be mindful of giving the plaza the opportunity to speak to that theme without being obvious about it. She said they tried to give a nod to those things. She said she liked the idea of if they embrace the project to see how it can play out, they could get some creative minds at work on how to do it without having something that is seen down the road as too specific. She said that with branding, they should be careful to have something that is worth the effort of going through.

Ms. Accardi said it was helpful to know that there was support for this type of incentive. She said staff can look at the corollary infrastructure that would be necessary to support it and bring it further along through the process to determine if there is funding or whatever is needed to make it a reality. She said staff heard that business improvement districts from other localities typically have a structure use to develop branding or a number of other initiatives in an area, and that staff could continue to explore this.

Ms. Accardi said the next time staff would be before the Commission was for the November 12 work session. She said they will bring together a draft framework of recommendations, with some follow-up questions. She said as they connect the different topics, there would be some questions staff brings before the Commission, as well as discussing the code type and incentives. She said perhaps there would be a type of incentive matrix. She said they also scheduled a December Board of Supervisors work session to present the framework, given the Commission's recommendations.

Mr. Keller said that the Commission always enjoys those opportunities to think about the future. He thanked staff for bringing it forward in a well-organized manner. He said he believed that there was an underlying theme that staff had caught before which came through on a number of the pieces in the presentation, which was the real concern for what the public spaces are going to be. He said this related to the arts and well as to the architectural section. He encouraged staff to be looking at and thinking about this.

Mr. Keller acknowledged that they were hoping for public-private partnerships out of the project, but there have been some interesting articles of late about the failures, on a smaller scale in the public domain. He encouraged staff to look at the Chicago model, noting that there was a Chicago Tribune in the last six months that reviewed 30 projects for things that had originally been dedicated to be public spaces that were being created by the private sector and that there has been a walking back on those. He said they have created some unfortunate bottlenecks and feelings of exclusion on parts of the community that had felt involved.

Mr. Keller said that staff has done a good job of having the Commission look at pieces, and that the public spaces were part of the "glue" and the real challenge. He said the question was to how much of this staff would need to consider being public sector, with associated costs, and how these would be dealt with, with the private-sector costs. He said this interface was equally important to what structure of the form-based code ultimately is selected.

Committee Reports

There were no committee reports.

Review of October 2 Board of Supervisors Meeting

Mr. Keller asked if Mr. Benish could review the October 2 meeting, as well as what was coming up in future meetings, noting that there was not a board meeting scheduled for October 29. He said that there were still concerns by some commissioners about attendance on the November 5 election day and that they need to ensure they will either have a quorum, or an agenda that is short enough to be over by the time election results were in.

Mr. Benish said he could not guarantee how short the meeting would be.

Mr. Benish said that there was only one item from the October 2 Board of Supervisors meeting, which was SP201900004 Virginia Institute of Autism Adult Service Center. He said this item was approved as reviewed by the Planning Commission and recommended for approval by the Commission.

Mr. Benish said that the work sessions the Commission has on the form-based code are summarized and then forwarded to the Board of Supervisors. He said that on that October 2 meeting, the work session from August was forwarded on. He said the board saw the Commission's discussion summarized at the meeting and was just provided for information.

Mr. Benish said that the following week, there was a meeting on October 22 and that Breezy Hill was one of the items on the agenda, as well as the compliance review for Encompass Health at University Research Park. He said the compliance review was due to the facility being a hospital and considered to be a public use.

Mr. Benish said that October 29 was a no-meeting date and there were no items. He said the timing for the projects for November 5 did not allow for those items to be scheduled on October 29. He said one of the items that will be brought to the Commission on November 5 is a work session on the Planning Commission's CIP process and that staff would be providing a general strawman of basic components based on the Commission's conversation from the first work session. He said there was also a rezoning that needed to be held on November 5, as well as a Zoning Text Amendment for religious assembly to bring the county's ordinance in compliance with the RLUIPA regulations and what they can view as by-right or legislative reviews for religious assembly activities.

Old Business

There was no old business.

New Business

There was no new business.

Adjournment

At 10:00 p.m., the Commission adjourned to October 22, 2019 Albemarle County Planning Commission meeting, 6:00 p.m., Lane Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

David Benish, Interim Director of Planning

(Recorded by Vivian Groeschel, and transcribed by Golden Transcription)

Approved by Planning Commission
Date: 11/12/2019
Initials: CSS